PROCEEDINGS

OF THE

TRAVANCORE SRI MULAM ASSEMBLY.

(OFFICIAL REPORT)

SECOND ASSEMBLY.

EIGHTH SESSION.

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DATA ENTERED

Monday, the 31st March 1941|18th Meenam 1116.

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SUPPLEMENT.

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Annexure I.

THE TRAVANCORE DISTRICT MUNICIPALITIES ACT, 1116.

(*As Revised by the Joint Committee.*)

An Act to make provision for the better management of the municipal affairs of Travancore except the city of Trivandrum.

PASSED BY HIS HIGHNESS THE MAHARAJA OF TRAVANCORE UNDER DATE THE 21ST MITHUNAM 1116 CORRESPONDING TO THE 5TH JULY 1941 UNDER SECTION 23 OF ACT II OF 1108.

Preamble.

Whereas it is expedient to make better provision for municipal administration in Travancore; It is hereby enacted as follows :—

PART I.

CHAPTER I.—PRELIMINARY.

Short title, commencement and local extent.

1. (1) This Act may be called "The Travancore District Municipalities Act, 1116," and shall come into force on such date as Our Government may by notification in Our Government Gazette direct, not being more than six months after the date on which it may be published in Our Government Gazette.

(2) It extends to the whole of Travancore except the city of Trivandrum within the meaning of the Trivandrum City Municipal Act :

Provided, however, should the circumstances of any municipality be such that, in the opinion of Our Government, any of the provisions of this Act are un-suited thereto, Our Government may, by notification, exempt the municipality from the operation of those provisions ; and thereupon, the said provisions shall not apply to the municipality until applied thereto by fresh notification

While such exemption is in force, Our Government may make rules for the guidance of the council and public officers in respect of the matters exempted from the operation of the said provisions.

Repeal and Saving clause.

2. The Travancore Municipal Act (V of 1095) is hereby repealed :

Provided that,—

(i) the said repeal shall not affect the validity or invalidity of anything already done under the repealed enactment ;

(ii) all municipalities constituted, limits defined, committees established, appointments, rules, regulations, bye-laws and orders made, notifications and notices issued, taxes, tolls, rates and fees imposed or assessed, contracts entered into, and suits and other proceedings instituted, under the Act hereby repealed, shall, so far as may be, be deemed to have been respectively constituted, defined, established, made, issued, imposed or assessed, entered into and instituted under the Act; and

(iii) any enactment in force in Travancore, or document referring to the repealed enactment, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Interpretation clause.

3. In this Act unless there is anything repugnant in the subject or context—

(1) "Appoint" includes to appoint temporarily or in an officiating capacity.

(2) "Appointment" includes temporary and officiating appointments.

(3) "Building" includes a house, out-house, stable, latrine, shed, hut, wall (other than a boundary wall not exceeding eight feet in height) and any other such structure whether of masonry, wood, brick, mud, metal or any other material whatsoever.

(4) "Building-line" means a line which is in rear of the street alignment and to which the main wall of a building abutting on a street may lawfully extend and beyond which no portion of the building may extend except as prescribed in the building rules.

(5) "Carriage" means any wheeled vehicle with springs or other appliances acting as springs; and includes any kind of motor car, motor lorry, motor omnibus, motor cycle, bicycle, tricycle and riksha.

(6) "Cart" includes any wheeled vehicle which is not a "carriage."

(7) "Casual vacancy" means a vacancy occurring otherwise than by efflux of time, and "casual election" means an election held on the occurrence of a casual vacancy.

(8) "Company" means a company as defined in "The Travancore Companies Act, 1114" and includes any firm or association carrying on business in Travancore whether incorporated or not and whether its principal place of business is situated in Travancore or not.

(9) "Election authority" means such authority not being the chairman or vice-chairman or a councillor, as may be prescribed.

(10) "Executive authority" means in the case of a municipality for which a commissioner is appointed under Section 13, the commissioner or if there is no commissioner in charge, the chairman; and in the case of any other municipality, the chairman.

Explanation—A commissioner shall be deemed to be in charge when he is on casual leave.

(11) "Filth" includes sewage, nightsoil, dung, dirt, putrid and putrifying substances and all offensive matter.

(12) "Hut" means any building which is constructed principally of wood, mud, leaves, grass or thatch, and includes any temporary structure of whatever size or any small building of whatever material made which the council may declare to be a hut for the purposes of this Act.

(13) "Latrine" means a place set apart for defecating or urinating or both and includes a closet of the dry or water carriage type and urinal.

(14) "Local authority" includes a village panchayat and a village union and any other similar authority that may be constituted or declared by Our Government.

(15) "Municipal office" means the principal office of any municipal council.

(16) "Nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance, disturbance or offence to the sense of sight, smell or hearing or to rest or sleep or which is or may be dangerous to life or injurious to health or property.

(17) "Occupier" includes any person for the time being paying or liable to pay to the owner, the rent or any portion of the rent of the land or building or part of the same in respect of which the word is used or damages on account of the occupation of such land, building or part and also a rent free tenant.

(18) "Ordinary vacancy" means a vacancy occurring by efflux of time and "ordinary election" means an election held on the occurrence of an ordinary vacancy.

(19) "Owner" includes—

(*a*) the person for the time being receiving or entitled to receive, whether on his own account or as agent, trustee, guardian, manager or receiver for another person, or for any religious or charitable purpose, the rent or profits of the property, in connection with which the word is used, and

(*b*) the person for the time being in charge of the animal or vehicle, in connection with which the word is used.

(20) "Place of public entertainment" shall mean any place, enclosure, building, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing or any diversion or game or the means of carrying on the same is provided, and to which the public are admitted either on payment of money, or with the intention that money may be collected from those admitted otherwise than for a *bona fide* charitable purpose, and shall include a race-course, circus, theatre, music-hall, billiard room, bagatelle-room, gymnasium, and fencing school.

(21) "Prescribed" means prescribed by Our Government by rules made under the Act.

(22) "Private street" means any street, road, square, court, alley, passage or riding path which is not a public street but does not include a pathway made by the owner of premises on his own land to secure access to or the convenient use of such premises.

(23) "Public street" means any street, road, square, court, alley, passage, or riding path over which the public have a right of way whether a thoroughfare or not, and includes,

(*a*) the roadway over any public bridge or causeway;

(*b*) the footway attached to any such street, public bridge or causeway; and

(*c*) the drains attached to any such street, public bridge or causeway and the land, whether covered or not by any pavement, veranda, or other structure, which lies on either side of the roadway up to the boundaries of the adjacent property whether that property is private property or property belonging to Our Government.

(24) "Public water-courses, spring wells and tanks" include those used by the public to such an extent as to give a prescriptive right to such use.

(25) "Qualified medical practitioner" means a medical practitioner with prescribed qualifications.

(26) "Reconstruction" of a building includes—

(*a*) the re-erection wholly or partially of a building after more than one-half of its cubical contents has been taken down, or burnt down, or has fallen down whether at one time or not;

(*b*) the re-erection wholly or partially of any building of which an outer wall has been taken down or burnt down or has fallen down to or within ten feet of the ground adjoining the lowest storey of the building, and of any frame building which has so far been taken down or burnt down or has fallen down as to leave only the frame work of the lowest storey;

(c) the conversion into a dwelling house or place of public worship of any building not originally constructed for human habitation or for public worship, as the case may be or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only or the conversion of a dwelling-house into a factory ; and

(d) the re-conversion into a dwelling-house or a place of public worship or a factory of any building which has been discontinued as, or appropriated for any purpose other than, a dwelling-house or a place of public worship or a factory, as the case may be.

(27) "Residence"—"Reside."—A person is deemed to have his "residence" or to "reside" in any house or hut if he sometimes uses any portion thereof as a sleeping apartment, and

a person is not deemed to cease to reside in any such house or hut merely because he is absent from it or has elsewhere another dwelling in which he resides if he is at liberty to return thereto at any time and has not abandoned his intention of returning.

(28) "Rubbish" means dust, ashes, broken bricks, mortar, broken glass, and refuse of any kind which is not "filth."

(29) "Salary" means pay and acting pay, or payment by way of commission and includes exchange compensation allowances, but not allowances for house-rent, carriage-hire, or travelling expenses.

(30) "Scavenger" means a person employed in collecting or removing filth in cleansing drains, latrines or slaughter-houses or in driving carts used for the removal of filth.

(31) "Street alignment" means a line dividing the lands comprised in and forming part of a street from the adjoining land.

(32) "Water course" includes any river, stream or channel, whether natural or artificial.

PART II.

Establishment, Constitution and Government of District Municipalities.

Chapter II—Creation and Abolition of Municipalities.

Creation, abolition etc., of municipalities

4. (1) Our Government may, by notification in Our Government Gazette, declare their intention—

(a) to constitute as a municipality any specified area within defined limits ; or

(*b*) to exclude from a municipality any specified area comprised therein and defined in such notification ; or

(*c*) to include within a municipality any specified area in the vicinity of the same and defined in such notification ; or

(*d*) to abolish any municipality constituted under this Act or under the Act hereby repealed.

(2) Any inhabitant of the specified area or municipality in respect of which a notification has been published under sub-section (1) may if he desires to object to such constituting, alteration, abolition, or to anything contained therein, submit his objection in writing to Our Government within two months from the publication of the notification, and such objection shall be taken into consideration by Our Government.

(3) When two months from the date of the publication have expired and such objections, if any, as may have been submitted under sub-section (2) have been considered, Our Government may, by notification in Our Government Gazette, declare the specified area or any portion of it to be a municipality, or exclude the specified area or any portion of it from the municipality, or include the whole or any portion of it within the municipality, or abolish the municipality, as the case may be :

Provided that no notification abolishing a municipality under this sub-section shall be issued without previously intimating in writing to the municipal council the grounds upon which such proposal is made and considering the explanations and objections, if any, of the municipal council.

(4) The notification mentioned in sub-section (3) shall take effect from the date of the notification, or, if any date be specified in the notification for its taking effect, from such date.

Effect of abolition of municipalities.

5. (1) When a municipality is abolished, this Act and all notifications, rules, regulation bye-laws, orders, directions and powers issued, made or conferred under this Act shall cease to apply to the area comprised within the municipality ; the balance of the municipal fund and all other property vested in the council at the time of its abolition shall vest in Our Government ; and the liabilities of the council shall be transferred to Our Government.

(2) All properties vested in Our Government under sub-section (1) shall be applied to discharge the liabilities imposed on Our Government by that sub-section or for the promotion of the safety, health, welfare or convenience of the inhabitants of the area comprised in the municipality.

CHAPTER III.

CONSTITUTION OF MUNICIPAL AUTHORITIES.

Authorities.

6. (1) There shall be constituted, for each municipality a council consisting of not less than twelve and not more than twenty-four councillors.

The constitution of council

(2) The municipal authorities charged with carrying out the provisions of this Act are (a) a council, (b) a chairman, (c) an executive authority.

The municipal authorities and their incorporation.

(3) The council shall by the name of the municipality be a body corporate, shall have perpetual succession and a common seal and subject to any restriction or qualification imposed by this or any other Act, shall be vested with the capacity of suing or being sued in its corporate name, of acquiring or holding and transferring property movable or immovable, of entering into contracts and of doing all things necessary for the purpose of its constitution.

7. (1) Our Government—

(i) shall, by notification, declare,

Power of Government over the constitution of councils.

(a) what shall be the maximum number of municipal councillors for each municipality;

(b) what proportion of the maximum number of councillors in each municipality is to be elected and what proportion to be appointed by Our Government;

(ii) and may, by notification accompanied by a statement of reasons for making the same, cancel or modify such declaration:

Provided, however, that the number of elected councillors shall never be less than three-fourths of the maximum number of councillors.

(2) Councillors appointed by Our Government may be officials or nonofficials.

(3) When official councillors are appointed they may be appointed by name or by virtue of office.

8. (1) The term for which a councillor shall hold office, shall save as otherwise expressly provided in this Act, be three years beginning and expiring at noon on the first day of Medam:

Term of councillor and filling up of seats.

Provided that the term of office of every councillor appointed by our Government may, if expressly stated in the notification of appointment itself, be for a period less than three years.

(2) Ordinary vacancies in the office of elected councillors shall be filled at ordinary elections which shall be fixed by the election authority to take place on such day or days in the months of Makaram and Kumbhom next preceding the vacancies as he thinks fit:

Provided that Our Government may for sufficient cause direct or permit the holding of any ordinary election after the end of Kumbhom.

(3) A councillor elected at an ordinary election held after the occurrence of a vacancy, shall enter upon office forthwith but shall hold office only so long as he would have been entitled to hold office if he had been elected before the occurrence of the vacancy.

(4) A casual vacancy in the office of an elected councillor shall be filled at a casual election which shall be fixed by the election authority to take place as soon as may be after the occurrence of the vacancy.

Provided that no casual election shall be held to fill casual vacancy occurring within three months before the ordinary date of retirement and that such vacancy shall be filled at the ordinary election.

(5) Councillor elected at a casual vacancy shall enter upon office forthwith but shall hold office so long only as the councillor in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

(6) Vacancies in the office of appointed councillors shall be filled up by Our Government.

(7) A councillor appointed by Our Government to a casual vacancy shall hold office so long only as a councillor in whose place he is appointed would have held office if the vacancy had not occurred.

(8) A councillor appointed by Our Government shall be competent to enter upon office only after his appointment is notified in Our Government Gazette.

(9) If a councillor is appointed by virtue of his office, the person for the time being holding the office shall be a member of the council unless Our Government otherwise direct.

(10) An outgoing councillor shall, if otherwise qualified, be again eligible for election or appointment.

9. (1) If at an ordinary or casual election held under Section 8, no councillor is elected, a fresh election shall be held on such day or days as the election authority may fix.

Procedure where no councillor is elected.

(2) If at such fresh election no councillor is elected, the council may in the manner prescribed, elect a qualified person to fill the vacancy.

(3) The term of office of a councillor elected under this Section shall expire at the time at which it would have expired if he had been elected at the ordinary or casual election as the case may be.

10. (1) Our Government may either—

(*a*) appoint some person to be the chairman of the municipal council, or,

(*b*) direct the council to elect its chairman in accordance with such rules and conditions as may be prescribed by Our Government.

Chairman and vice-chairman to be appointed or elected.

(2) When the chairman is not a member of the council, he shall, during his term of office as chairman (which shall be for a period of three years) be *ex-officio* member of the council irrespective of the strength fixed for the Council under Section 7.

(3) Notwithstanding anything contained in sub-section (1) Our Government may, at any time for any reason which they may deem to affect the public interest, direct by notification, that the chairmanship of any council which is then filled up by election shall thenceforth, when vacant, be filled by Our Government.

(4) The municipal council may, subject to such rules as may be prescribed by Our Government, elect one of its councillors as vice-chairman.

(5) If Our Government issue a direction to the council to elect its chairman or vice-chairman, and the council fails to make an election within two months from the receipt of such direction, a chairman or vice-chairman shall be appointed by Our Government unless a fresh election is directed by Our Government under the provisions of this sub-section.

11. No chairman, vice-chairman or councillor shall receive or be paid from the funds at the disposal of or under the control of the council, any salary or other remuneration for services rendered by him in any capacity whatsoever.

Chairman, vice-chairman or councillor not to receive remuneration.

12. (1) If a chairman is appointed by Our Government by virtue of his office, the person for the time being holding the office shall be the chairman until Our Government shall otherwise direct.

Term of office of chairman and vice-chairman etc.

(2) The term of office of a chairman appointed otherwise than under sub-section (1) shall, save as otherwise provided in this Act or expressly stated in the notification of appointment itself, be a period of three years from the date of Our Government Gazette wherein his appointment is notified; and the term of office of an elected chairman shall, except as otherwise provided, be until the expiry of his term of office as councillor or until he otherwise ceases to be a councillor; and the term of office of an elected chairman who, before the date of such election, was not a member of the council shall terminate on the date on which it would have terminated if he were an elected member of the council on the date of such election.

(3) A vice-chairman shall be deemed to have vacated his office —

(i) on the expiry of his term of office as a councillor or on his otherwise ceasing to be a councillor ; or

(ii) on his election as chairman.

(4) When the office of chairman is vacant, the vice-chairman shall exercise the functions of the chairman until a new chairman assumes office.

(5) When the office of chairman is vacant and there is either a vacancy in the office of vice-chairman or the vice-chairman has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, the Peishkar or the Assistant Peishkar authorised by the Peishkar shall, after giving notice of not less than seven clear days to the councillors, convene a meeting for the election of a chairman and until a new chairman or vice-chairman is elected and assumes office or the vice-chairman returns to jurisdiction or recovers from the incapacity as the case may be, the Peishkar or the Assistant Peishkar, as the case may be, shall, notwithstanding anything contained in this Act or in the rules or notifications issued thereunder, be *ex-officio* member and chairman of the council.

(6) Notwithstanding anything contained in sub-section (2) an outgoing chairman shall, unless Our Government otherwise direct, continue in office until the appointment of his successor is notified in Our Government Gazette and such successor assumes office.

(7) An outgoing chairman or vice-chairman shall, if otherwise qualified, be again eligible for election or appointment.

The commissioner of the municipality.

13. (1) Our Government may, by notified order, appoint a commissioner for any municipality and may, by a like order, cancel such appointment. Every order appointing a commissioner shall specify the reasons therefor.

(2) The commissioner shall, save as otherwise provided in this Act, hold office for a period of three years from the date of his appointment. An outgoing commissioner shall be eligible for re-appointment if otherwise qualified.

(3) No person shall be appointed to be a commissioner and no commissioner shall continue to hold office as such, after he has attained the age of fifty-five.

(4) Our Government may, at any time, remove the commissioner from office and shall do so if such removal is recommended by a resolution of the council passed at a special meeting called for the purpose and supported by the votes of not less than three-fourth of the sanctioned strength of the council.

(5) The commissioner shall be a whole-time officer of the municipality and shall not undertake any work unconnected with his office without the sanction of the municipal council and Our Government.

(6) (a) The commissioner shall be paid out of the municipal fund such salary and allowances not exceeding three hundred rupees per mensem in the aggregate as may from time to time be fixed by Our Government.

(b) If the commissioner is an officer in the service of Our Government, the municipal council shall pay to Our Government such contribution towards his leave allowances, pension and provident fund as may be payable under the rules and regulations of the branch of Government service to which he belongs and in force for the time being.

(c) If the commissioner is not an officer in the service of Our Government his leave and leave allowances, his superannuation or retirement, his gratuity or pension and the proportions of his pensionary or provident fund contribution payable respectively from his salary and from the municipal fund shall be governed by regulations framed by Our Government:

Provided that:—

(i) the amount of such leave and leave allowances, gratuity or pension shall, in no case, exceed what would be admissible in the case of Government servants of similar standing and status; and

(ii) the conditions under which such allowances are granted or any leave, superannuation or retirement is sanctioned shall not be more favourable than those for the time being admissible to such Government servants.

(7) Leave may be granted to the Commissioner by Our Government. Whenever such leave is granted, Our Government shall appoint some person to officiate in his office.

(8) The commissioner shall be appointed from among persons who are in active Government or municipal service.

Effect of transfer of appointed chairman or councillor.

14. Any chairman or councillor appointed by Our Government and holding a salaried office under Our Government shall, on being permanently transferred from the place where the municipality is situated be deemed to have vacated his seat in the council.

Explanation.—Transfer, for a period exceeding three months, shall be deemed to be a permanent transfer for the purpose of this Section.

The Chairman and the Executive authority.

Functions of the chairman.

15. The chairman of the municipal council shall;—

(a) make arrangements for the election of the vice-chairman ;

(b) convene the meetings of the council ; and

(c) perform all the duties and exercise all the powers specifically imposed or conferred on the chairman by this Act.

Functions of the executive authority.

16. The executive authority of the municipal council shall—

(a) carry into effect the resolutions of the council ;

(b) furnish to the council such periodical reports regarding the progress made in carrying out the resolutions of that body in the collection of taxes as the council may direct ; and

(c) perform all the duties and exercise all the powers specifically imposed or conferred on the executive authority by this Act, and subject, whenever it is hereinafter expressly so provided, to the sanction of the council, and subject to all other restrictions, limitations and conditions hereinafter imposed, exercise the executive power for the purpose of carrying out the provisions of this Act and be directly responsible for the due fulfilment of the purposes of this Act.

Rights of chairman where a commissioner has been appointed.

17. In the case of a municipality for which a commissioner is appointed under Section 13, the chairman shall have full access to all the records of the municipal council and no official correspondence between the council and Our Government shall be conducted except through the chairman. The chairman shall be bound to transmit communications addressed through him by the commissioner to Our Government or by Our Government to the commissioner.

18. The chairman shall, by virtue of his office, be a member of every committee of the council.

The chairman to be a member of every committee.

19. The executive authority may in cases of emergency direct the execution of any work or the doing of any act which would ordinarily require the sanction of the council, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public and may direct that the expense of executing such work or doing such act shall be paid from the municipal fund :

Emergency powers of executive authority.

Provided that

(*a*) he shall not act under this Section in contravention of any order of the council prohibiting the execution of any particular act, and

(*b*) he shall report the action taken under this Section and the reasons therefor to the council at its next meeting.

20. (1) The chairman may, by an order in writing, delegate any of his function including his functions as executive authority if he is also the executive authority to the vice-chairman:

Delegation and devolution of functions of chairman.

Provided that he shall not delegate any functions which the municipal council expressly forbids him to delegate.

(2) If the chairman has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, his functions including, where he is also the executive authority, his functions as such, except those of promoting, withholding promotion from, reducing, removing or dismissing any municipal officer or servant, shall, during such absence or incapacity, devolve on the vice-chairman :

Provided that where the absence from jurisdiction of the chairman is within Travancore and is on business connected with the municipality, the chairman's functions shall not, except to the extent, if any, to which functions have been delegated by him under sub-section (1), devolve on the vice-chairman.

(3) If the vice-chairman also has been continuously absent from jurisdiction for more than fifteen days or is incapacitated or if the office of vice-chairman is vacant, the chairman may, by an order in writing, delegate any of his functions including his functions as executive authority if he is also the executive authority to any councillor who shall be styled 'chairman-delegate' during the period of delegation.

Provided that—

(i) when an order of delegation made under this sub-section is in force, no further order of delegation of any functions shall be made in favour of any other than the councillor in whose favour the order in force was made ;

(ii) no delegation under this sub-section shall, without the special sanction of the council, be made for any period exceeding in the aggregate ninety days in any year ; and

(iii) every order made under this sub-section shall be communicated forthwith to the council and to the Peishkar.

(4) Subject to any restrictions that the council may impose, the chairman may where he is also the executive authority, by order in writing, delegate any of his executive functions to any officer or servant of the council or with the previous sanction of Our Government to any officer of Government.

(5) The exercise or discharge of any functions delegated under sub-sections (1), (3) and (4) shall be subject to such restrictions, limitations and conditions, if any, as may be laid down by the chairman and shall also be subject to his control and revision. The chairman shall also have power to control and revise the exercise or discharge of any functions devolving on the vice-chairman under sub-section (2).

Rights and duties of the commissioner.

21. (1) (*a*) The Commissioner shall have the right to attend the meetings of the council or any committee thereof, and take part in the discussions thereat but shall not have the right to move any resolution or to vote.

(*b*) He shall attend any meeting of the Council or of any committee if required to do so by the chairman.

(2) In the case of municipalities where a commissioner appointed under Sub-section (1) of Section 13 is in charge, the officers and servants of the municipal council shall be subordinate to the Commissioner.

(3) Subject to any directions given or restrictions imposed by Our Government or the municipal council, the Commissioner may, by order in writing, delegate any of his functions to any officer of Government. The exercise or discharge of any functions so delegated shall be subject to such restrictions. Limitations and conditions may be laid down by the Commissioner and shall also be subject to his control and revision.

The Council.

Functions of the council.

22. Subject to the provisions of this Act the municipal administration shall vest in the council, but the council shall not be entitled to exercise functions expressly assigned by or under this Act or any other law to the chairman or executive authority.

23. (1) Any councillor may call the attention of the executive authority to any neglect in the execution of municipal work, to any waste of municipal property, or to the wants of any locality and may suggest any improvements which may appear desirable.

Duties and powers of individual councillors.

(2) Every councillor shall have the right to move resolutions and to interpellate the chairman on matters connected with the municipal administration subject to such regulations as may be framed by the council.

(3) Every councillor shall have access during office hours to the records of the council after giving due notice to the executive authority provided that the executive authority may for reasons given in writing forbid such access.

24. The council may at any time require the executive authority to produce any document which is in his custody.

Council's power to call for records.

The executive authority shall comply with every such requisition unless in his opinion immediate compliance therewith would be prejudicial to the interests of the council or of the public, in which case he shall make a declaration in writing to that effect and shall, if required by the council, refer the question to Our Government whose decision shall be final.

25. The executive authority shall be bound to give effect to every resolution of the council unless such resolution is modified, suspended or cancelled by a controlling authority.

Obligation of the executive authority to carry out council's resolutions.

26. A council may constitute committees for the purpose of exercising such powers, discharging such duties or performing such functions as it may delegate to them; or may appoint individual councillors, or committees, to enquire into and report or advise on any matters which it may refer to them.

Appointment of committees.

27. It shall be lawful for the council from time to time by a resolution supported by not less than one-half of the sanctioned strength of the council to appoint as members of any committee any persons who are not councillors but who may in the opinion of such council possess special qualifications for serving on such committee. But the number of persons so appointed on any committee shall not exceed one-third of the total number of members of such committee. All the provisions of this Act relating to the duties, powers, liabilities and disqualifications and disabilities of councillors shall, save as regards the disqualification on the ground of residence, be applicable, so far as may be, to such persons.

Appointment of special committees.

Rules and regulations for proceedings of council.

28. The council shall observe the rules in Schedule I and may make regulations not inconsistent therewith or with other provisions of this Act or any rules made by Our Government in regard to the following matters:—

(*a*) the time and place of its meeting;

(*b*) the manner in which notice thereof shall be given;

(*c*) the preservation of order and the conduct of proceedings at meetings, and the powers which the chairman may exercise for the purpose of enforcing his decisions on points of order;

(*d*) the division of duties among the members of the council;

(*e*) the constitution and procedure of committees;

(*f*) the delegation of its powers, duties or functions—

(i) to the chairman, a councillor, an officer or servant of the council or an officer of Our Government; or

(ii) to a committee constituted under clause (*e*) or to its chairman or to any one or more of its members;

(*g*) the persons by whom receipts may be granted for money paid to the council; and

(*h*) all other similar matters.

Appointment of joint committee.

29. (1) A council may, and if so required by Our Government shall, join with one, or more than one, other local authority in constituting a joint committee for any purpose in which they are jointly interested or for any matter for which they are jointly responsible.

(2) A joint committee may include persons who are not members of the local authorities concerned but who may in their opinion possess special qualifications or special interest for serving on such committee:

Provided that the number of such persons shall not exceed one-third of the total number of members of the joint committee.

(3) The constitution of a joint committee shall be by means of regulations which shall not, except in the cases referred to in sub-sections (6) and (7), have effect unless assented to by each of the local authorities concerned.

(4) The regulations shall determine—

(*a*) the total number of members of the joint committee;

(*b*) the number who shall be members of the local authorities concerned and the number who may be outsiders;

(*c*) the persons who shall be members of the joint committee or the manner in which they shall be elected or appointed;

(*d*) the person who shall be chairman of the joint committee or the manner in which he shall be elected or appointed;

(*e*) the term of office of members and chairman;

(*f*) the powers, being powers exercisable by one or more of the local authorities concerned, which may be exercised by the joint committee; and

(*g*) the procedure of the joint committee.

(5) Regulations made under sub-sections (3) and (4) may be varied or revoked provided that all the local authorities concerned assent to such variation or revocation.

(6) If Our Government take action under sub-section (1), they may issue such directions as they think necessary or desirable in respect of all or any of the matters referred to in sub-sections (3) and (4).

(7) If any difference of opinion arises between local authorities under any of the foregoing provisions of this Section, it shall be referred to Our Government whose decision shall be final.

Notification of election and appointment.

30. All elections and appointments of chairman, vice-chairman and members of municipal councils shall be notified in Our Government Gazette.

Presidency of council.

31. (1) Every meeting of the council shall be presided over by the chairman; in his absence by the vice chairman; and in the absence of both the chairman and the vice-chairman, by a councillor chosen by the meeting to preside for the occasion.

(2) The chairman shall preserve order and shall decide all points of order arising at or in connection with meetings. There shall be no discussion on any point of order and the decision of the chairman on any point of order shall, save as is otherwise expressly provided in this Act, be final.

(3) A vice-chairman or councillor presiding for the occasion shall, for that meeting, and during the period that he presides over it, have all the powers of the chairman.

Councillor when to abstain from taking part in discussion and voting.

32. (1) No councillor shall vote on, or take part in, the discussion of any question coming up for consideration at a meeting of the council or any committee, if the question is one in which, apart from its general application to the public, he has any direct or indirect pecuniary interest by himself or his partner.

(2) The chairman may prohibit any councillor from voting or taking part in the discussion of any matter in which he believes such councillor to have such interest, or he may require such councillor to absent himself during the discussion.

(3) Such councillor may challenge the decision of the chairman, who shall thereupon put the question to the meeting. The decision of the meeting shall be final.

(4) If the chairman is believed by any councillor present at the meeting to have any such pecuniary interest in any matter under discussion, he may, if a motion to that effect be carried, be required to absent himself from the meeting during such discussion.

(5) The councillor concerned shall not be entitled to vote on the question referred to in sub-section (3), and the chairman concerned shall not be entitled to vote on the motion referred to in sub-section (4).

Explanation.—'Chairman' in this Section includes a vice-chairman or councillor presiding for the occasion.

Power of chairman, vice-chairman or councillor to resign.

33. Any councillor other than the chairman and any vice-chairman may resign his office by giving notice to the chairman; the chairman may resign by giving notice to the council. Such resignation shall take effect in the case of a councillor or vice-chairman from the date on which it is received by the chairman and in the case of a chairman from the date on which it is placed before the council.

Acts of municipal council etc., not to be invalidated by informality etc

34 No act of a municipal council or of a committee thereof or of any person acting as chairman, vice-chairman or member of the municipal council or committee shall be deemed to be invalid by reason only of a defect in the establishment of the municipality or committee or on the ground that the chairman, vice-chairman or any member of the council or committee was not entitled to hold or continue in such office by reason of any disqualification or by reason of any irregularity or illegality in his election or appointment or by reason of such act having been done during the period of any vacancy in the office of chairman, vice-chairman or member of the council or committee.

Administration Report.

Annual Administration report.

35. (1) As soon as may be after the first day of Chingam in every year, and not later than such date as may be fixed by Our Government, the municipal council shall submit to Our Government a report on the administration during the preceding year in such form and with such details as Our Government may direct. If Our Government deem it necessary they may call for the remarks of the Peishkar on such report and may forward the remarks to the council and the council shall be entitled within such time as Our Government fix, to offer or make such explanations or observations as the council thinks fit.

(2) The executive authority shall prepare the report; the municipal council shall consider his report and forward it to Our Government with its resolutions thereon, if any.

(3) The report and the resolutions thereon, if any, shall be published in such manner as the council, subject to the approval of Our Government, may direct.

Controlling authorities.

Power of Government and Peishkar for purposes of control.

36. (1) The Peishkar may enter on and inspect, or cause to be entered on and inspected, any immovable property or any work in progress under the control of any municipal authority in his Division.

(2) Our Government or the Peishkar if authorised in this behalf may—

(*a*) call for any document in the possession or under the control of any council or executive authority;

(*b*) require any council or executive authority to furnish any return, plan, estimate, statement, account, or statistics;

(*c*) require any council or executive authority to furnish any information or report on any municipal matter;

(*d*) record in writing, for the consideration of the council or executive authority any observations they or he may think proper in regard to its or his proceedings or duties.

Peishkar's power to enforce execution of resolutions.

37. If it appears to the Peishkar that the executive authority of a municipality has made default in carrying out any resolution of the council, the said Peishkar, after giving the executive authority a reason able opportunity of explanation, shall send a report thereon together with the explanation, if any, of the executive authority to Government and at the same time forward a copy of the same to the council.

Power to suspend or cancel resolutions etc., under the Act.

38. (1) Our Government may, by order in writing—

(i) suspend or cancel any resolution passed, order issued, or licence or permission granted or

(ii) prohibit the doing of any act which is about to be done or is being done in pursuance or under colour of this Act, if, in their opinion.

(*a*) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorised or

(*b*) such resolution, order, licence, permission or act is in excess of the powers conferred by this Act or any other law or

(*c*) the execution of such resolution or order, the continuance in force of such licence or permission or the doing of such act is likely to cause danger to human life, health or safety, or is likely to lead to a riot or an affray:

Provided that Our Government shall before taking action under this Section on any of the grounds referred to in clauses (*a*) and (*b*) give the authority or person concerned an opportunity for explanation.

(2) If, in the opinion of the Peishkar, immediate action is necessary on any of the grounds referred to in clause (*c*) of sub-section (1) he may suspend the resolution, order, licence, permission or act, as the case may be, and report to Our Government who may thereupon either rescind the Peishkar's order or after giving the authority or person concerned a reasonable opportunity of explanation, direct that it continues in force with or without modification permanently or for such period as they think fit.

Emergency powers of Peishkar.

39. (1) The Peishkar may, in cases of emergency, direct or provide for the execution of any work, or the doing of any act which the council or executive authority is empowered to execute or to do, and the immediate execution or the doing of which is, in his opinion, necessary for the safety of the public, and may direct that the expense of executing such work or doing such act incurred as the emergency may require shall be paid from the municipal fund :

Provided that no direction for payment from the municipal fund shall be issued in respect of any sum which is in excess of Rs. 500 without the previous sanction of Our Government.

(2) If the expense is not so paid, such Peishkar may make an order directing the person having the custody of the municipal fund to pay it in priority to any other charge against the fund.

(3) Such person shall so far as the funds to the credit of the municipal council admit, be bound to comply with such order.

(4) Every case in which the powers conferred by this Section are exercised shall be forthwith reported to Our Government by the Peishkar with the reasons in full for the exercise of such powers ; and a copy of the letter shall at the same time be sent to the municipal council for information.

Government's power to appoint officers to supervise municipalities

40. (1) Our Government may appoint such officers as may be required for the purpose of inspecting or superintending the operations of all or any of the municipal councils established under this Act.

(2) All schools, hospitals, dispensaries, vaccine stations, choultries and other institutions maintained by any municipal council and all documents relating thereto shall at all times be open to the inspection of such officers as Our Government may appoint in that behalf.

(3) Municipal authorities and municipal officers and servants shall be bound to afford to inspecting or superintending officers of Government appointed under this section such access at all reasonable times to municipal property or premises, and to all documents which, subject to any rules framed for their guidance under Section 323 (1) and (2) (p), they may consider to be necessary to enable them to discharge their duties of inspection or superintendence.

Control over municipal electrical undertaking.

41. The administration by a municipal council of any undertaking for the generation, transmission, supply or use of electrical energy shall be subject to such control as may be prescribed not inconsistent with the Travancore Electricity Act, I of 1097, as in force for the time being, the Rules made under that Act and the terms of the licence granted under it to the municipal council.

Government's power to undertake works for or to take action in default of a municipality

42. (1) If at any time it appears to Our Government that a municipal council or chairman or executive authority has made default in performing any duty imposed by or under this or any other Act they may, by order in writing, fix a period for the performance of such duty.

(2) If such duty is not performed within the period so fixed, Our Government may appoint some person to perform it, and may direct that the expense of performing it shall be paid, within such time as they may fix, to such person by the municipal council.

(3) Our Government may, with the consent of the municipal council, undertake on its behalf the construction of water-supply, drainage or other works, appoint persons to carry out the construction of such works, and direct that the expense, including the pay of such persons, be paid from the municipal fund.

(4) If expenses which Our Government have directed under sub-section (2) or (3) to be paid from the municipal fund are not so paid, the Peishkar, with the previous sanction of Our Government, may make an order directing the person having the custody of the municipal fund to pay it in priority to any other charge against such fund except charges for the service of authorized loans.

(5) Such person shall, so far as the funds to the credit of the municipal council admit, be bound to comply with such order.

Government to remove chairman or vice-chairman.

43. (1) Our Government may, by notification, remove any chairman or vice-chairman who in their opinion wilfully omits or refuses to carry out or disobeys the provisions of this Act or any rules, bye-laws regulations or lawful orders issued thereunder or abuses the powers vested in him.

(2) Our Government shall, when they propose to take action under sub-section (1), give the chairman or vice-chairman concerned an opportunity for explanation, and the notification issued under the said sub-section shall contain a statement of the reasons of Our Government for the action taken.

(3) Any person removed under sub-section (1) from the office of chairman or from the office of vice-chairman shall not be eligible for election to either of such offices until the date on which the notice of the next ordinary elections to the municipal council is published in the prescribed manner or the expiry of six months from the date of removal, whichever is earlier.

Motion of no-confidence in chairman or vice-chairman

44. (1) Subject to the provisions of this Section, a motion expressing want of confidence in the chairman or in the vice-chairman may be made in accordance with the procedure laid down herein.

(2) Written notice of intention to make the motion, in such form as may be fixed by Our Government, signed by such number of councillors as shall constitute not less than one-half of the sanctioned strength of the council, together with a copy of the motion which is proposed to be made, shall be delivered by any two of the councillors signing the notice in person together, to the Peishkar.

(3) The Peishkar shall then convene a meeting for the consideration of the motion, to be held at the municipal office, at a time appointed by him which shall not be later than thirty days from the date on which the notice under sub section (2) was delivered to him. He shall give to the councillors notice of not less than fifteen clear days of such meeting and of the time appointed therefor.

(4) The Peishkar shall preside at the meeting convened under this Section and no other person shall preside thereat. If within half anhour after the time appointed for the meeting the Division Peishkar is not present to preside at the meeting the meeting shall stand adjourned to a time to be appointed and notified to the councillors by the Division Peishkar under sub-section (5).

(5) If the Division Peishkar is unable to preside at the meeting, he may, after recording his reasons in writing, adjourn the meeting to such other time as he may appoint. The date so appointed shall not be later than thirty days from the date appointed for the meeting under sub-section (3). Notice of not less than seven clear days shall be given to the councillors of the time appointed for the adjourned meeting.

(6) Save as provided in sub-sections (4) and (5), a meeting convened for the purpose of considering a motion under this Section, shall not, for any reason, be adjourned.

(7) As soon as the meeting convened under this Section has commenced the Peishkar shall read to the council the motion for the consideration of which it has been convened, and declare it to be open for debate.

(8) No debate on any motion under this section shall be adjourned.

(9) Such debate shall automatically terminate on the expiry of two hours from the time appointed for the commencement of the meeting, if it is not concluded earlier. Upon the conclusion of the debate or upon the expiry of the said period of two hours, as the case may be, the motion shall be put to the vote of the council.

(10) The Division Peishkar shall not speak on the merits of the motion, nor shall he be entitled to vote thereon.

(11) A copy of the minutes of the meeting together with a copy of the motion and the result of the voting thereon shall forthwith on the termination of the meeting be forwarded by the Peishkar to Our Government.

(12) If the motion is carried with the support of not less than three-fifths of the sanctioned strength of the council, Our Government shall, by notification, remove the chairman or vice-chairman, as the case may be.

(13) If the motion is not carried by such a majority as aforesaid, or if the meeting cannot be held for want of a quorum, no notice of any subsequent motion expressing want of confidence in the same chairman or vice-chairman shall be received until after the expiry of six months from the date of the meeting.

(14) No notice of a motion under this Section shall be received within six months of the assumption of office by a chairman or vice-chairman as the case may be.

Government's power to dissolve or supersede council.

45. (1) If in the opinion of Our Government a council is not competent to perform or persistently makes default in performing the duties imposed on it by law, or exceeds or abuses its powers, Our Government may by notification direct that the council be dissolved and reconstituted on such dates as Our Government may fix in that behalf; or Our Government may, if they think necessary, supersede the council for a specified period not exceeding two years:

Provided as follows:—

(*a*) for the purpose of completing the elections to a council which has been dissolved Our Government may, in their discretion, from time to time, extend the time fixed by them under the sub-section for its reconstitution.

(*b*) Our Government shall not supersede a portion only of the municipal council.

(2) Before publishing a notification under sub-section (1), Our Government shall communicate to the council concerned the grounds on which they propose to do so, fix a reasonable period for the council to show cause against the proposal and consider its explanations or objections, if any:

Provided that where a council has disobeyed an order issued under Section 38, Our Government shall not be bound to follow the procedure laid down in this sub-section.

(3) On the date fixed for the dissolution of the council under sub-section (1) all its members as well as its chairman and vice-chairman shall forthwith be deemed to have vacated their offices and fresh elections shall be held in accordance with the provisions of this Act. The newly elected councillors shall enter upon their offices on the date fixed for the reconstitution of the council.

(4) Supersession shall take effect from noon on the date of publication of the notification, if no date is therein specified, and thereupon the following consequences shall ensue:—

(*a*) All the members of the council as well as its chairman and vice chairman shall forthwith be deemed to have vacated their offices.

(*b*) All or any of the functions of the council and of its chairman, including where the chairman is also the executive authority his functions as such may during the period of supersession, be exercised and performed, as far as may be, and to such extent as Our Government may determine, by such persons as Our Government appoint in that behalf and any such person who is not a Peishkar or Assistant Peishkar may, if Our Government so direct, receive payment for his services from the municipal fund; Our Government may determine the relations of such person with the municipal secretary, (if any) with the district controlling offices and with themselves; and where there is a commissioner Our Government may direct him to perform any powers and duties of the council in addition to his own.

(5) On or before the expiry of the period of supersession notified under sub-section (1), Our Government may, by notification, for reasons to be stated in the notification, postpone the reconstitution of the council for a further period not exceeding six months, or notwithstanding anything contained in proviso to sub-section (3) of Section 4, withdraw the area of the municipality from the operation of this Act under that Section.

(6) Our Government may reconstitute the council before the expiry of the period notified under sub-section (1) or sub-section (5).

(7) When a council is dissolved or superseded under this Section, Our Government, until the date of the reconstitution thereof and the reconstituted council thereafter, shall be entitled to all

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the assets and be subject to all the liabilities of the council as on the date of the dissolution or supersession and on the date of the reconstitution, respectively.

46. When the Peishkar or person appointed by Our Government lawfully takes action on behalf or in default of the municipal council under this Act he shall have all such powers as are necessary for the purpose, and shall be entitled to the same protection under this Act as the municipal authority whose powers he is exercising and compensation shall be recoverable from the municipal fund by any person suffering damage from the exercise of such powers to the same extent as if the action had been taken by such municipal authority.

Powers of officers acting for, or in default of, municipal council and liability of municipal fund.

Chapter IV.—Election and Appointment of Councillors.

Elections.

47. (1) For the purposes of election of councillors to a municipal council, Our Government after consulting the municipal council may, by notification, divide the municipality into wards.

Election of municipal councillors.

(2) All the electors of a ward, shall be entitled to vote at an election to any seat in that ward

(3) When issuing under sub-section (1) a notification which materially alters the existing division of a municipality into wards, Our Government may direct that alteration shall take effect from the date of the next ordinary elections.

(4) When the number of councillors to be returned by a ward is altered or when a new ward is formed, or when an existing ward is abolished, the election authority shall with the approval of Our Government, determine—

(*a*) the ward which each councillor then on the council shall be deemed to represent; and

(*b*) the ward or wards in which elections shall be held to fill up the vacancies, if any, in the council.

48. (1) An electoral roll for every municipality showing the names of persons qualified to vote therein shall be prepared and published by the election authority in the manner prescribed before the 15th of Vrischikam of the year in which the ordinary vacancies are to occur.

Publication of electoral roll.

(2) The roll so prepared and published shall be revised and a list of amendments and corrections thereto shall in like manner be prepared and published by the election authority before the 15th of Vrischikam of every year.

(3) When a municipality has been divided into wards the electoral roll shall be divided into separate lists for each ward.

(4) The electoral roll published in any year as revised by the list of amendments and corrections, if any, shall remain in force till the publication of a fresh electoral roll.

(5) Every person whose name appears in the electoral roll as so revised shall so long as it remains in force be entitled to vote at an election; and no person whose name does not appear in such roll shall vote at an election.

Qualifications for voting.

49. (1) No person shall be included in the electoral roll as qualified to vote unless—

(*a*) he has attained the age of twenty-one years in the year preceding that in which the electoral roll is published;

(*b*) he has been assessed in such preceding year to any tax payable under clause (*a*), (*b*), (*c*), or (*d*) of Section 77 to the municipality or any tax to Our Government or is a retired, pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular forces or of the Travancore State Forces; and

(*c*) he has resided in the municipality for one hundred and twenty days in the aggregate in such preceding year.

(2) If a company or association or the members of a Hindu joint family or Marumakkathayam Taravad or joint pattadars has or have been assessed to any tax, the company or association or the family or Taravad or joint pattadars shall be treated as possessing the qualifications, and the person entitled to be registered in the electoral roll shall be the secretary of the company or association or some other person duly authorised in that behalf or the member authorised by a majority of the family, or Taravad or of the joint pattadars, or, in the case of a joint Hindu family or Marumakkathayam Taravad either a member so authorised or in default of such authorization, the manager thereof.

(3) A person may be qualified either in his personal capacity or in the capacity of a representative of a company or association or of a joint family or Marumakkathayam Taravad or of joint pattadars, but not in both capacities.

(4) Save as provided in sub-section (2), no person shall be qualified as an elector unless he possesses the necessary qualifications in his personal capacity.

50. Notwithstanding anything contained in sub-section (5) of Section 48, a person who is of unsound mind, a deaf-mute or a leper shall not be entitled to vote at any election to a municipal council.

Disqualifications of voters.

Qualifications for membership of council.

51. No person shall be qualified for election as a councillor unless the name of such person appears on the electoral roll of the municipality.

Qualification of candidates.

52. (1) A person shall be disqualified for election or appointment as a councillor if such person—

Disqualification of candidates.

(*a*) has been at any time sentenced by any court to any punishment other than fine for any non-bailable offence, such sentence not having been subsequently reversed or quashed, or

(*b*) is at the date of election or appointment—

(i) of unsound mind, a deaf-mute or a leper ;

(ii) an applicant to be adjudicated a bankrupt or insolvent or an undischarged insolvent ;

(iii) interested in a subsisting contract made with, or any work being done for, the municipality except as a shareholder (other than a director) in an incorporated company :

Provided that a person shall not be deemed to have any interest in such contract or work by reason only of his having a share or interest in—

(1) any lease, sale or purchase of immovable property or any agreement for the sale, or

(2) any agreement for the loan of money or any security for the payment of money only, or

(3) any newspaper in which any advertisement relating to the affairs of the council is inserted, or

(4) the sale to the council of any articles in which he regularly trades or the purchase from the council of any articles to a value in either case not exceeding one thousand rupees in the aggregate in any year during the period of the contract or work.

(iv) an officer or servant holding office under this Act, a Magistrate, a District Munsiff, a District Judge or a High Court Judge ; or

(v) already a councillor whose term of office as such will not expire before his fresh election or appointment can take effect :

(vi) employed as legal practitioner on behalf of the council or as legal practitioner against the council, or

(vii) the servant or employer or the official subordinate or the official superior of a councillor holding office on such date, or

(viii) in arrears of any kind due by him (otherwise than in a fiduciary capacity) to the municipality up to and inclusive of the previous year in respect of which a bill or notice has been duly served upon him, and the time, if any, specified therein for payment has expired.

(2) Notwithstanding anything contained in clause (a) of sub-section (1), Our Government may direct that such sentence shall not operate as a disqualification.

(3) No person shall be qualified for election or appointment during the period for which he has been declared to be disqualified by a judicial order passed under Section 56, and still in force.

(4) A person shall be disqualified for election as a councillor if such person is an officer or servant of Our Government.

Disqualification of councillors.

53. (1) Subject to the provisions of Section 54, a councillor shall cease to hold his office, if he—

(*a*) is sentenced by a criminal court to such punishment and for such offence as is described in sub-section (1) of Section 52;

(*b*) becomes of unsound mind, a deaf-mute, or a leper;

(*c*) applies to be adjudicated or is adjudicated, a bankrupt or insolvent;

(*d*) subject to the proviso to sub-clause (iii) of clause (b) of sub-section (1) of Section 52, acquires any interest in any subsisting contract made with, or work being done, for the council except as a shareholder other than a director in a company;

(*e*) is employed as paid legal practitioner on behalf of the council or accepts employment as legal practitioner against the council;

(*f*) is appointed as an officer or servant under this Act or as an Honorary Magistrate for the municipal town;

(*g*) accepts employment under or becomes the official subordinate of any other councillor;

(*h*) ceases to reside in the municipality or within two miles thereof; or

(*i*) fails to pay arrears of any kind due by him (otherwise than in a fiduciary capacity) to the municipality within three months after a bill or notice has been served upon him under this Act or where in the case of any arrears, this Act does not require the service of any bill or notice within three months after a notice requiring payment of the arrears (which notice it shall be the duty of the executive authority to serve at the earliest possible date) has been duly served upon him by the executive authority; or

(*j*) absents himself from the meetings of the council for a period of three consecutive months reckoned from the date of the commencement of his term of office, or of the last meeting which he attended, or of his restoration to office as councillor under sub-section (4), as the case may be or if within the said period, less than three meetings have been held, absents himself from three consecutive meetings held after the said date:

Provided that no meeting from which a councillor absents himself shall be counted against him under this clause, if due notice of that meeting was not given to him.

Explanation:—A meeting held under sub-rule (2) of Rule 2 of Schedule I or Rule 3 of that Schedule shall not be deemed to be a meeting within the meaning of this clause.

(2) Notwithstanding anything contained in clause (*a*) of sub-section (1) Our Government may direct that such sentence shall not operate as a disqualification.

(3) Where a person ceases to be a councillor under clause (*a*) of sub-section (1) or under Section 56 he shall be restored to office for such portion of the period for which he was elected as may remain unexpired at the date of such restoration, if and when the sentence or order is annulled on appeal or revision or the disqualification caused by the sentence is removed by an order of Our Government. And any person elected to fill the vacancy in the interim shall on such restoration vacate office.

(4) Where a person ceases to be councillor under clause (*i*) of sub-section (1) the executive authority shall at once intimate the fact in writing to such person and report the same to the council at its next meeting. If such person applies for restoration *suo motu* to the council on or before the date of its next meeting or within fifteen days of the receipt by him of such intimation, the council may at the meeting next after the receipt of such application restore him to his office of councillor:

Provided that a councillor shall not be so restored more than twice during his term of office.

Decision on questions of disqualification of councillors by District Judge.

54. (1) Whenever it is alleged that any person who has been elected as a councillor is disqualified under Section 51, Section 52, Section 53 or Section 56, and such person does not admit the allegation or whenever any councillor is himself in doubt, whether or not he has become disqualified for office, under Section 53 or Section 56, such councillor or any other councillor may, and the executive authority, at the request of the council, shall, apply to the District Judge of the district in which the municipality is situated.

(2) The said judge, after making such inquiry as he deems necessary, shall determine whether or not such person is disqualified under Section 51, Section 52, Section 53 or Section 56, and his decision shall be final.

(3) Pending such decision the councillor shall be entitled to act as if he were not disqualified.

Election offences.

Infringement of secrecy of election.

55. Every polling officer, clerk or other person in attendance at the polling room who, except for some purpose authorised by law, communicates to any person any information showing directly or indirectly for which candidate any voter has voted and every person who by any improper means procures any such information, shall be punished with imprisonment of either description which may extend to six months or with fine or with both.

Disqualification of persons convicted of election offences.

56. Every person convicted of an offence punishable under Chapter IX-A of the Penal Code shall be disqualified from voting or from being elected in any election to which this Regulation applies or from holding the office of municipal councillor for a period of five years from the date of his conviction or for such shorter period as the court may, by order, determine.

CHAPTER V.

POWERS OF MUNICIPAL AUTHORITIES IN RESPECT OF PROPERTY, CONTRACTS, ESTABLISHMENT.

Property.

Vesting of public streets and appurtenances in the municipal council.

57. (1) All public streets in any municipality, with the pavements, stones and other materials thereof, and all works, materials and other things provided for such streets, all sewers, drains, drainage works, tunnels and culverts, whether made at the cost of the municipal fund or otherwise, in alongside or under any street, whether public or private, and all works, materials and things appertaining thereto shall vest in the municipal council.

(2) Our Government may by notification withdraw any such street, sewer, drain, drainage work, tunnel or culvert from the control of the council.

Collected sewage, etc., to belong to municipal council.

58. All rubbish and filth and other matter collected by a municipal council under this Act shall belong to the council.

59. (1) The management, control and administration of every public institution maintained exclusively out of the municipal fund shall vest in the municipal council.

Management of public institution.

(2) When any public institution has been placed under the direction, management and control of the municipal council, all property, endowments and funds belonging thereto shall be held by the council, in trust for the purposes to which such property, endowments and funds were lawfully applicable at the time when the institution was so placed:

Provided that the extent of the independent authority of the council in respect of any such institution may, from time to time, be prescribed by Our Government:

Provided also that nothing in this section shall be held to prevent the vesting of any trust property in the Treasurer of Charitable Endowments under Act II of 1082.

60. (1) The executive authority shall maintain an inventory of all immovable property owned by the municipal council or to which the council has a reversionary right.

Inventory of municipal property.

(2) A copy of the said inventory shall be deposited in the office of the Peishkar of the division in which the municipality lies, and all changes shall be forthwith communicated to the said officer.

61. The council may accept trusts relating exclusively to the furtherance of any purpose to which the municipal fund may be applied.

Limitation of power to accept property in trust.

62. Our Government may, with the consent of a municipal council, transfer to the council the management of any institution or the execution of any work not provided for by this Act, and it shall thereupon be lawful for the council to undertake such management or execution:

Objects not provided for by this Act.

Provided that in every such case the funds required for such management or execution shall be placed at the disposal of the council by Our Government.

63. Any immovable property, which any municipal authority is authorised by this Act to acquire may be acquired under the provisions of the Land Acquisition Act, and on payment of the compensation awarded under the said Act in respect of such property and of any other charges incurred in acquiring it the said property shall vest in the council.

Procedure for acquisition of immovable property under the Land Acquisition Act.

Contracts.

Delegation of authority to contract and contractual powers of persons appointed by Government.

64. (1) The council may delegate to the chairman or a committee consisting of two or more members the power of making on its behalf any contract whereof the value or amount does not exceed five hundred rupees :

Provided that in the case of a municipality where a commissioner appointed under Section 13 is in charge, the power of making, on behalf of the council, all contracts whereof the value or amount does not exceed five hundred rupees shall be exercised by a committee consisting of the chairman, the commissioner and one member of the council elected by it; and the council shall not exercise or delegate the power of making such contracts.

(2) In respect of contract whereof the value or amount exceeds five-hundred rupees the sanction of the council for the making thereof should be obtained before the same is made.

(3) Notwithstanding anything in the two preceding sub-sections, any person appointed by Our Government to carry any work into execution on behalf of a municipal council may, subject to such control as Our Government may prescribe, make such contracts as are necessary for the purpose of carrying such work into execution to the extent of the sum provided for such work; and the municipal council shall pay to the person so appointed such sums as may be required for the said purpose to the extent aforesaid.

Mode of executing contracts.

65. (1) Every contract made by, or on behalf of, the council whereof the value or amount exceeds one hundred rupees shall be in writing and except in the case of contracts made under the provisions of sub-section (3) of Section 64 shall be signed by two municipal councillors :

Provided that in the case of a municipality where a commissioner appointed under Section 13 is in charge every such contract shall be signed by the commissioner.

(2) A contract executed or made otherwise than in conformity with the provisions of this and the last preceding sections shall not be binding on the municipal council.

Establishment.

Establishment of municipal council.

66. (1) The sanction of the council shall be obtained for all proposals for fixing or altering the number, designations and grades of its officers and servants and the salaries, fees and allowances payable to them.

(2) Such proposals shall be taken into consideration by the council only at the instance of the executive authority and the council may sanction them with or without modifications:

Provided that no proposal adversely affecting any municipal officer or servant who has been in the permanent service of the municipality for more than five years and is drawing a salary of not less than fifty rupees per mensem, shall be considered except at a special meeting convened for the purpose and no such proposal shall be given effect to, unless assented to by at least one-half of the members then on the council.

(3) Notwithstanding anything contained in sub-sections (1) and (2), Our Government shall have power to fix or alter the number, designations and grades of, and the salaries, fees and allowances payable to, the officers and servants of any municipal council or any class of such officers and servants; and it shall not be open to the municipal council to vary the number, designations, grades, salaries, fees or allowances as so fixed or altered, except with the previous sanction of Our Government.

The health officer and the engineer.

67. (1) Any municipal council, by special resolution may, and every council which during three consecutive years has realised an annual income of thirty thousand rupees from ordinary receipts, shall, if so required by Our Government, sanction a post of health officer and a post of municipal engineer.

(2) Any municipal council which has undertaken the generation, transmission or supply of electrical energy, by special resolution may, and if so required by Our Government shall, sanction a post of municipal electrical engineer.

(3) The salaries of these officers shall be fixed by the municipal council subject to the approval of Our Government.

(4) Every health officer, engineer or electrical engineer shall devote his whole time to the duties of his office and shall not engage in any other profession, trade or business.

Filling up of the appointments of health officer or engineer.

68. (1) On the occurrence of a vacancy in, or after the creation of, an office of health officer, engineer or electrical engineer, an appointment shall be made thereto by the council subject to the approval of Our Government within four months from the date on which the vacancy occurred or the office was created or, in the event of any appointment so made by the council not being confirmed by Our Government, within thirty days of the date of the receipt by the council of the orders of Our Government.

(2) In default of an appointment being made by the council as aforesaid, Our Government may appoint a person to hold the office, and such appointment shall, for all purposes, be deemed to have been made by the municipal council.

(3) Pending the settlement of an appointment under sub-section (1) or (2) the municipal council may appoint a person to hold the office temporarily and may direct that the person so appointed shall receive such salary not exceeding the sanctioned salary of the post as it shall think fit.

(4) No such officer shall be removed from office except with the consent of Our Government. Such consent shall be given if the removal is recommended by a resolution of the council passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the sanctioned strength of the council.

Filling up of appointments other than those specified in Sections 13 and 68.

69. Save as provided in Sections 13 and 68, appointments to all posts under the municipal council, the pay or the maximum pay of which exceeds fifty rupees per mensem shall be by a committee consisting of the chairman the commissioner and one member elected by the council and appointments to all other posts under the council shall be made by the executive authority, subject to any rules (including rules for the representation of different communities) which Our Government may make on this behalf:

Provided that in case of emergency—

(*a*) the executive authority may appoint temporarily such officers and servants as may in his opinion be required for the purposes of this Act and the employment of whom for any particular work has not been prohibited by any resolution of the municipal council; and

(*b*) every appointment made under sub-clause (*a*) shall be reported by the executive authority to the council at its next meeting

Power of Government to transfer officers and servants of municipalities.

70. (1) Notwithstanding anything contained in this Act, Our Government shall have power to transfer any officer or servant of a municipality to the service of any other municipality:

Provided that such power shall be exercised after consulting the municipalities concerned.

(2) Our Government shall have power to issue such general or special directions as they may think necessary for the purpose of giving due effect to transfers made under sub-section (1).

Power of council to frame service regulations

71. Subject to the provisions of this Act and any rules which Our Government may make in this behalf, the council may frame regulations in respect of officers and servants on the municipal staff—

(*a*) fixing the amount and nature of security to be furnished; or

(*b*) prescribing educational or other qualifications;

(*c*) regulating the grant of leave, leave allowances, acting allowances and travelling allowances;

(*d*) regulating the grant of pensions and gratuities;

(*e*) establishing and maintaining provident funds and making contribution thereto compulsory;

(*f*) regulating conduct; and

(*g*) generally prescribing conditions of service:

Provided—

(i) that the amount of any leave, leave allowances, travelling allowances, pension or gratuity provided for in such regulations shall in no case without the special sanction of Our Government exceed what would be admissible in the case of Government servants of similar standing and status;

(ii) that the conditions under which such allowances are granted or any leave superannuation or retirement is sanctioned shall not without similar sanction be more favourable than those for the time being prescribed for such Government servants.

Power to punish municipal officers or servants.

72. Subject to the provisions of Section 75 and to such control as may be prescribed by Our Government the executive authority may censure, fine, withhold promotion from, reduce, suspend, remove or dismiss any municipal officer or servant in its service except a health officer, a municipal engineer or a municipal electrical engineer for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct.

Power to grant leave to establishment.

73. The executive authority may grant leave to all municipal officers and servants.

Power of Government to appoint health officers and municipal engineers.

74. Notwithstanding anything contained in this Act—

(*a*) Our Government may, by notification, take power to appoint the health officer, the municipal engineer or the municipal electrical engineer in the case of any municipality or class of municipalities;

(*b*) Our Government may recover from the municipal council concerned the whole or such proportion of the salary and allowances paid to any such health officer, engineer or electrical engineer and such contribution towards his leave allowances, pension, gratuity and provident fund as Our Government may, by general or special order, determine;

(c) Our Government may, at any time, withdraw any such health officer, engineer or electrical engineer and appoint another in his place ; and

(d) Our Government shall have power to regulate the methods of recruitment, conditions of service, pay and allowances, and discipline and conduct of the health officers, engineers and electrical engineers, appointed under sub-section (a).

Special provisions regarding Government servants lent to council.

75. (1) Our Government may, on the application of any municipal council, place the services of any Government servant at the disposal of the council to be employed by it for the purposes of this Act. The council shall pay any Government servant so employed the salary he may be entitled to receive under the rules of the branch of Government service to which he belongs, and shall also pay Our Government such contribution towards the pension, gratuity and leave allowances of such servants as may be payable under the regulations in that behalf in force for the time being.

(2) If such servant, while employed by the municipal council or if any other servant of the council does any work for Government, Our Government shall contribute to the municipal fund so much of the salary of such servant as Our Government may consider to be an equivalent for such work.

(3) No Government servant employed by the municipal council under this Section shall be dismissed from such employment without the consent of Our Government or until three months notice in writing to that effect shall have been given to the chief controlling authority of the branch of the Government service to which such servant belongs.

(4) No Government servant employed by a municipal council shall, except in cases of emergency, be withdrawn from the service of the council, without the consent of the municipal council unless and until Our Government shall have given three months' notice in writing to that effect to the municipal council or unless some other Government servant has been deputed to replace the one withdrawn.

(5) Government servants employed by municipal councils shall be entitled to leave and other privileges in accordance with the regulations applicable to the department of the general administration to which they belong.

Co-ordination of any class of municipal officers or servants.

76. (1) Notwithstanding anything contained in this Act Our Government may, by notification, constitute any class of officers or servants of municipal councils into a municipal service for Travancore :

Provided that no notification shall be issued under this sub-section—

(i) unless all the municipal councils constituted under this Act have been consulted in respect thereof, and

(ii) unless a majority of the councils so consulted have passed a resolution supporting such issue.

(2) Upon the issue of a notification under sub-section (1), Our Government shall have power, subject to the provisions of Section 326, to make rules to regulate the classification, methods of recruitment, conditions of service, pay and allowances, and discipline and conduct of the municipal service thereby constituted and such rules may vest jurisdiction in relation to such service in Our Government or in such other authority or authorities as may be prescribed therein.

PART III.

CHAPTER VI—TAXATION AND FINANCE

Enumeration of ordinary taxes and powers of control of Government.

77. Every municipal council may levy—

(*a*) a property tax;

(*b*) a profession tax ;

(*c*) a tax on carriages and animals ;

(*d*) a tax on carts ;

(*e*) tolls on vehicles and animals entering the municipality; and may, with the previous sanction and subject to such rules as may be framed by Our Government, levy—

(*f*) a tax on advertisements ; and

(*g*) a tax on entertainments.

Resolution of council determining to levy tax or toll.

78. Any resolution of a municipal council determining to levy a tax or toll shall specify the rate at which any such tax or toll shall be levied and the date from which it shall be levied :

Provided that before passing a resolution imposing a tax or toll for the first time or increasing the rate of an existing tax or toll, the council shall publish a notice in Our Government Gazette and at least in one Malayalam or Tamil newspaper having circulation in the municipality of its intention, fix a reasonable period not being less than one month for submission of objections and consider the objections, if any, received within the period specified :

Provided also that any resolution abolishing an existing tax or toll or reducing the rate at which a tax or toll is levied shall be immediately reported to Our Government and in municipalities which have an outstanding loan either from Our Government or from the public or any other local body such abolition or reduction shall not be carried into effect without the sanction of Our Government :

Provided also that where any resolution under this Section has taken effect for a particular year no proposals to alter the rates or date fixed in such resolution so far as that year is concerned shall be taken into consideration by the council.

Notification of new taxes and tolls.

79. When a municipal council shall have determined subject to the provisions of Section 78 to levy any tax or toll for the first time or at a new rate, the executive authority shall forthwith publish a notification in Our Government Gazette and by beat of drum specifying the rate at which, the date from which, and the period of levy, if any, for which such tax or toll shall be levied.

The property tax.

Description and classes of property tax.

80. (1) If the council by a resolution determines that a property tax shall be levied, such tax shall be levied on all buildings and lands within the municipal limits save those exempted by or under this Act or any other law. The property tax may comprise—

(*a*) a tax for general purposes ;

(*b*) a water and drainage tax to provide for expenses connected with the construction, maintenance, repair, extension or improvement of water or drainage works heretofore provided or hereafter to be provided ;

(*c*) a lighting tax to provide for expenses connected with the lighting of the municipality by gas or electricity ; and

(*d*) a scavenging tax to provide for expenses connected with the removal of rubbish, filth or the carcasses of animals from private premises :

Provided that where the water and drainage tax is levied, the municipal council shall declare what proportion of the tax is levied in respect of water-works and the remainder shall be deemed to be levied in respect of drainage works and the proportion so declared shall also be specified in the notification published under Section 79.

(2) Save as otherwise provided in this Act, these taxes shall be levied at such percentages of the annual value of lands or buildings or both as may be fixed by the municipal council, subject to the provisions of Section 77.

(3) The municipal council may, in the case of lands which are not used exclusively for agricultural purposes and are not occupied by, or adjacent and appurtenant to, buildings, levy these taxes at such percentages of the capital value of such lands or at such rates with reference to the extent of such lands, as it may fix:

Provided that such percentages or rates shall not exceed the maxima, if any, fixed by Our Government and that the capital value of such lands shall be determined in such manner as may be prescribed.

81 (1) Every building shall be assessed together with its site and other adjacent premises occupied as an appurtenance thereto unless the owner of the building is a different person from the owner of such site or premises.

Method of assessment of property.

(2) The annual value of lands and buildings shall be deemed to be the gross annual rent at which they may reasonably be expected to let from month to month or from year to year less a deduction, in the case of buildings only, of ten per centum of such annual rent and the said deduction shall be in lieu of all allowance for repairs or on any other account whatever:

Provided that—

(*a*) in the case of

(i) any Government building or

(ii) any building of a class not ordinarily let the gross annual rent of which cannot, in the opinion of the executive authority, be estimated,

the annual value of the premises shall be deemed to be six per cent. of the total of the estimated value of the land and the estimated present cost of erecting the building after deducting for depreciation a reasonable amount which shall in no case be less than ten per centum of such cost; and

(*b*) machinery and furniture shall be excluded from valuations under this Section;

Provided further that where the annual value of any land or building is attributable partly to the use of such land or building or any portion thereof for the display of any advertisement or advertisements the value of such land or building for the purpose of assessing the property tax thereon shall be ascertained as if such land, building or portion is not used for the display of such advertisement or advertisements.

82. (1) The following buildings and lands shall be exempt from the property tax:—

Exemption.

(*a*) places set apart for public worship and either actually so used or used for no other purpose;

(*b*) choultries for the occupation of which no rent is charged and choultries the rent charged for the occupation of which is used exclusively for charitable purposes;

(*c*) buildings used for educational purposes including hostels public buildings and places used for the charitable purpose of sheltering the destitute or animals, and libraries and play-grounds which are open to the public;

(*d*) such ancient monuments protected under the Ancient Monuments Protection Act, 1112, or parts thereof as are not used as residential quarters, or as public offices;

(e) charitable hospitals and dispensaries ;

(f) burial and burning ground included in the book kept at the municipal office under Section 301 ;

(g) building or lands belonging to the municipal council ;

(h) such property of Government not being buildings as may from time to time be notified by Our Government with the consent of the municipal council.

Explanation:—The exemption granted under this Section shall not extend to residential quarters attached to schools and colleges not being hostels or to residential quarters attached to hospitals, dispensaries and libraries.

(2) The water and drainage tax shall not be levied on any land used exclusively for agricultural purposes and not deriving any benefit from the water or drainage works on account of which the tax is imposed.

(3) The municipal council may with the previous sanction of Our Government exempt any particular part of a municipality from the payment of the whole or a portion of the water and drainage tax or of the lighting tax on the ground that such area is not deriving full benefit from the water-supply and drainage or from the lighting system.

(4) The municipal council may exempt any building or land from the whole or any portion of the scavenging tax if it is satisfied that the owner or occupier has made efficient and satisfactory arrangements for the daily removal therefrom or other satisfactory disposal of rubbish, filth and carcasses of animals.

(5) The municipal council may by a general resolution exempt any building or land from the property tax—

(i) if the annual value of the same does not exceed a sum specified in the said resolution, such sum not being greater than eighteen rupees, and

(ii) the proprietor does not own any other building or land assessed to the property tax and is not liable to profession or income-tax.

Taxation to be uniform.

83. (1) The rate of any class of property tax on lands when levied on their annual value may be lower than the rate of the same class of property tax on buildings but either rate shall be uniform throughout the municipal area on all buildings or on all lands liable to be taxed on their annual value, as the case may be.

(2) The rate of any class of property tax shall be uniform throughout the municipal area on all lands liable to be taxed on their capital value.

84. The property tax on buildings and lands shall, subject to the prior payment of land revenue, if any, due to Our Government thereon, be a first charge upon the said buildings or lands and upon the movable property, if any, found within or upon the same and belonging to the person liable to such tax.

Property tax a first charge on property.

85. The property tax shall be levied every half-year and shall, save as otherwise expressly provided in Schedule II, be paid by the owner of the assessed premises within thirty days after the commencement of the half-year.

Property tax when payable.

86. (1) When any building whether ordinarily let or occupied by the owner himself has been vacant and unlet for thirty or more consecutive days in any half-year, the executive authority shall remit so much, not exceeding one-half of such portion of the tax as relates to the building only as is proportionate to the number of days during which the building was vacant and unlet in the half-year.

Vacancy remission.

(2) Every demand for remission under sub-section (1) shal be made during the half-year in respect of which the remission is sought or in the following half-year and not afterwards.

(3) (*a*) No demand for such remission shall be entertained unless the owner of the building or his agent has previously thereto delivered notice to the executive authority—

(i) that the building is vacant and unlet; or

(ii) that the building will be vacant and unlet from a specified date either in the half-year in which notice is delivered or in the succeeding half-year.

(*b*) The period in respect of which the remission is made shall be calculated—

(i) if remission is sought in respect of the half-year in which notice is delivered, from the date of delivery of the notice or from the date on which the building became vacant and unlet, whichever is later; and

(ii) if remission is sought in respect of the half-year succeeding that in which the notice is delivered, from the commencement of the half-year in respect of which remission is sought or from the date on which the building became vacant and unlet, whichever is later.

(*c*) Every notice under class (*a*) shall expire with the half-year succeeding that during which it is so delivered, and shall have no effect thereafter.

87. (1) Whenever the title of any person primarily liable to the payment of property tax on any premises to or over such premises is transferred, the person whose title is transferred and the person to whom the same shall be transferred shall within three months after the execution of the instrument of transfer or after its registration if it be registered or after the transfer is effected, if no instrument be executed, give notice of such transfer to the executive authority.

Obligation of transferor and transferee to give notice of transfer.

(2) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred, as heir or otherwise, shall give written notice of such transfer to the executive authority within one year from the death of the deceased.

(3) The notice to be given under this Section shall be in such form as the executive authority may direct and the transferee or the person to whom the title passes, as the case may be, shall, if so required, be bound to produce before the executive authority any documents evidencing the transfer or succession.

(4) Every person who makes a transfer as aforesaid without giving such notice to the executive authority shall, in addition to any other liability which he incurs through such neglect, continue liable for the payment of property tax assessed on the premises transferred until he gives notice or until the transfer shall have been recorded in the municipal registers but nothing in this Section shall be held to affect—

(*a*) the liability of the transferee for the payment of the said tax, or

(*b*) the prior claim of the municipal council under Section 84.

88. (1) (*a*) If any building in a municipality is constructed or reconstructed, the owner shall give notice thereof to the executive authority within fifteen days from the date of completion or occupation of the building whichever is earlier.

Owner's obligation to give notice of construction, reconstruction or demolition of building.

(*b*) If such date falls within the last two months of a half-year, the owner shall, subject to notice being given under clause (*a*), be entitled to a remission of the whole of the tax or enhanced tax, as the case may be, payable in respect of the building only, for that half-year.

(*c*) If such date falls within the first four months of a half-year, the owner shall, subject to notice being given under clause (*a*), be entitled to a remission of so much not exceeding a half of the tax or enhanced tax, as the case may be payable in respect of the building only, for that half-year, as is proportionate to the number of days in that half-year preceding such date

(2) (*a*) If any building in a municipality is demolished or destroyed, the owner shall, until notice thereof is given to the executive authority, be liable for the payment of the property tax which would have been leviable had the building not been demolished or destroyed.

(*b*) If such notice is given within the first two months of a half-year, the owner shall be entitled to a remission of the whole of the tax payable in respect of the building only, for that half-year.

(*c*) If such notice is given within the last four months of a half-year, the owner shall be entitled to a remission of so much not exceeding a half of the tax payable in respect of the building only, for that half-year as is proportionate to the number of days in that half-year preceding the demolition or destruction as the case may be.

89. (1) If any area is included within a municipality the owner of every building or land in such area shall—

Remission of tax in areas included or excluded in the middle of a half-year.

(*a*) if the date of such inclusion falls within the last two months of a half-year, not be liable to pay any property tax in respect thereof for that half-year; and

(*b*) if such date falls within the first four months of a half-year, be entitled to a remission of so much not exceeding a half of the property tax payable in respect thereof for that half-year, as is proportionate to the number of days in that half-year preceding such date.

(2) If any area is excluded from a municipality the owner of every building or land in such area shall be entitled—

(*a*) if the date of such exclusion falls within the first two months of a half-year, to a remission of the whole of the property tax payable in respect thereof for that half-year; and

(*b*) if such date falls within the last four months of a half-year, to a remission of so much not exceeding a half of the property tax payable in respect thereof for that half-year, as is proportionate to the number of days in that half-year preceding such date.

(3) No remission shall be granted under sub-section (2) in respect of any building or land unless an application in writing for such remission is made to the executive authority within three months from the date of the exclusion of the area in which the building or land is situated.

90. (1) For the purpose of assessing the property tax, the executive authority may, by notice, call on the owner or occupier of any land or building to furnish him, within thirty days after the service of the notice, where the notice is served upon Our Government or a company and within

Executive authority's power to call for information and to enter upon premises.

fourteen days after such service in other cases, with returns of the rent payable for the land or building, the cost of erecting the building and the measurements of the land and with such other information as the executive authority may require ; and every owner and occupier on whom such notice is served shall be bound to comply with it and to make a true return to the best of his knowledge or belief.

(2) For the purpose aforesaid the executive authority may enter, inspect, survey and measure such building or land, after giving twenty-four hours' notice to the owner or occupier.

Profession tax.

Profession tax.

91. (1) If the council by a resolution determine that a profession tax shall be levied—

every company which, after the date specified in the notification published under Section 79, transacts business in the municipality for not less than sixty days in the aggregate in any half-year; and every person, who after the said date, in any half-year—

(*a*) exercises a profession, art, or calling or transacts business or holds any appointment, public or private—

(i) within the municipality for not less than sixty days in the aggregate, or

(ii) without the municipality but who resides in the municipality for not less than sixty days in the aggregate, or

(*b*) resides in the municipality for not less than sixty day in the aggregate and is in receipt of any pension or income fron investments,

shall pay a half-yearly tax assessed in accordance with the rules in Schedule II.

(2) A person shall be chargeable under the class appropriate to his aggregate income from all the sources specified in sub-section (1) as being liable to the tax.

(3) If a company or person proves that it or he has paid the sum due on account of the profession tax levied under this Act, for the same half-year to any municipal council in Travancore, such company or person shall not be liable, by reason merely of change of place of business, exercise of profession, art or calling, appointment or residence to pay to any other local authority, more than the difference between such sum and the amount to which it or he is otherwise liable for the profession tax for the half-year under this Act.

(4) Nothing contained in this Section shall be deemed to render a person who resides within the local limits of one municipality and exercises his profession, art or calling, or transacts business or holds any appointment within the limits of any other municipality or municipalities liable to profession tax for more than

the higher of the amounts of the tax leviable by any of the municipalities. In such a case Our Government shall apportion the tax between municipalities in such manner as they may deem fit and the decision of Our Government shall be final.

Liability of members of firms, associations etc., to profession tax.

92. The profession tax leviable from a firm, association, joint Hindu family or marumakkathayam taravad may be levied from any adult member or agent of the firm or association or manager or agent of the family or taravad, as the case may be.

Liability of servants or agents to profession tax.

93. (1) If a company or person employs a servant or agent to represent it or him for the purpose of transacting business in a municipality, such company or person shall be deemed to transact business in the municipality and such servant or agent shall be liable for the profession tax, in respect of the business of such company or person, whether or not such servant or agent has power to make binding contracts on behalf of such company or person.

(2) Where one company or person is the agent of another company or person, the former company or person shall not be liable separately to the profession tax, on the same income as that of the principal.

Service of notice on failure of payment of tax.

94. If the profession tax due from any company or person is not paid, the executive authority shall cause a notice to be served on such company or person to pay it within fifteen days of the date of such service.

Statements, returns etc. to be confidential.

95. All statements made, returns furnished or accounts or documents produced in connection with the assessment of profession tax by any company or person shall be treated as confidential and copies thereof shall not be granted to the public.

Requisition on owner or occupier to furnish list of persons liable to tax.

96. The executive authority may by notice require the owner or occupier of any building or land and every secretary or manager of a hotel, boarding or lodging house, club or residential chambers to furnish within a specified time a list in writing containing the names of all persons occupying such building, land, hotel, boarding or lodging house, club or residential chambers and specifying the profession, art, calling, or appointment of every such person and the rent, if any, paid by him and the period of such occupation.

Requisition on employers or their representatives to furnish list

97. The executive authority may by notice require any employer or the head or secretary or manager of any public or private office, hotel, boarding-house or club or of a firm or company—

(*a*) to furnish within a specified time a list in writing of the names of all persons employed by such employer or by such office, hotel, boarding house, club, firm or company as officers, servants, dubashes, agents, suppliers, or contractors, with a statement of the salary or income of such employed persons, and

(*b*) to furnish particulars in regard to any company of which such employer, head, secretary or manager, as the case may be, is the agent.

Tax on carriages and animals.

General provisions regarding tax on carriages and animals.

98. (1) If the council by a resolution determines that a tax on carriages and animals shall be levied, the executive authority shall levy the said tax half-yearly on carriages and animals kept within the municipality which are of the kinds specified in Schedule II.

(2) The rates of the tax shall be determined by the council, provided always that they shall not exceed the maxima laid down in Schedule II.

Liability to tax according to period for which carriage or animal has been kept

99. (1) Every person having possession, custody or control of any taxable carriage or animal shall be liable for the full half-yearly tax if the carriage or animals has been kept within the municipality for an aggregate period of not less than sixty days in the half-year.

(2) If such aggregate period exceeds fifteen days but is less than sixty days, a moiety only of the half-yearly tax shall be leviable.

(3) If such aggregate period does not exceed fifteen days, no tax shall be leviable for the half-year.

(4) Every person having possession, custody or control of any taxable carriage or animal within the municipality shall, until the contrary is shown, be presumed to have kept the same within the municipality for sixty days in the half-year.

(5) Notwithstanding anything contained in sub-sections (1) and (2) no person shall be liable to tax during any half-year on account of any carriage or animal in respect of which the full tax for the same half-year has already been paid by some other person.

100. The carriage and animal tax shall not be levied on—

Exemptions.

(*a*) carriages and animals declared by Our Government as belonging to the Palaces or the Residency;

(*b*) carriages and animals kept solely for sale by carriage-makers and dealers ;

(*c*) carriages which have been under repair or standing at a carriagemaker's during the whole of the half-year;

(*d*) carriages and animals belonging to the council;

(*e*) animals which during the whole of the half-year have been kept in any institution for the reception of infirm or disabled animals or which are certified by a veterinary surgeon to have been unfit for use during the whole of the half-year.

Compositions

101. With the sanction of the council or in accordance with the regulations framed by that body, the executive authority may compound, for any period not exceeding one year, with any livery stable keeper or other person keeping carriages and animals for sale or hire, for a certain sum to be paid in lieu of the carriage and animal tax.

Forms to be sent to and returned by tax-payers.

102. (1) The executive authority shall send to every person supposed to have become liable to the payment of the tax on carriages and animals a printed table to be filled up with such information respecting the carriages and animals kept by him as the executive authority considers necessary for the assessment of the tax.

(2) Such table shall be filled up with such information in writing, and signed and dated, and returned within one week of its receipt to the municipal office by the person to whom it has been sent.

(3) On the expiry of the period of one week referred to in sub-section (2), the executive authority shall cause a notice to be served on such person requiring him to pay within fifteen days of the date of such service the sum for which in the opinion of the executive authority, such person is liable on account of the tax on carriages and animals.

Grant of licence on payment of tax.

103. When any person pays the amount of tax due in respect of any carriage or animal, the executive authority shall grant him a licence to keep such carriage or animal for the period to which the payment relates.

Power to require numbers to be affixed to bicycles etc

104. (1) The executive authority may direct that a municipal number shall be affixed—

(*a*) to every carriage let out for hire within the municipality, and

(*b*) to every bicycle and tricycle kept within the municipality:

Provided that no municipal number shall be requisite in the case of carriages to which a number must be affixed under the provisions of any special Act.

(2) The numbers affixed under sub-section (1) shall be registered in the municipal office.

Tax on Carts

105. (1) If the council by a resolution determines that a tax shall be levied on carts, the executive authority shall levy the said tax half-yearly at the rate (which shall not exceed four rupees per cart per half-year), fixed by the council and specified in the notification published under Section 79 in pursuance of such resolution and from the date specified in such notification in respect of all carts kept within the municipality.

General provisions regarding cart-tax

(2) Every owner of any such cart shall register it once in every half-year in the municipal office.

(3) The council may direct that a municipal number shall be affixed to every registered cart.

(4) The executive authority shall notify certain days in every half-year for the registration and numbering of carts and the payment of the tax.

(5) All registrations made and numbers affixed under this Section shall be entered in a book to be kept for the purpose at the municipal office.

(6) Such book shall be open to the inspection of any person who pays any tax to the municipality at all reasonable times without charge.

(7) Nothing in this Section shall apply to—

(*a*) carts or wagons or other such property of Our Government or the municipality or declared by Our Government as belonging to the Palaces or the Residency; and

(*b*) to carts kept solely for sale by cart-makers and dealers.

106. The executive authority may remit any portion of the cart-tax in respect of any cart which is shown to his satisfaction to have been kept within the municipality for an aggregate period not exceeding fifteen days in the half year, or to have been under repair or standing at a cart-maker's during the whole of the half-year.

Power to remit tax.

Taxes leviable under Sections 98 and 105.

107. Where the Hackney Carriage Act (VI of 1089), as amended by Act I of 1103, is in force in any area of a municipality the person appointed to perform the functions of the registering officer under the said Act in respect of such area shall, before registering any hackney carriage thereunder, satisfy himself that the municipal council has received payment of the tax, if any, due under Section 98 or Section 105, as the case may be, on account of the last preceding half-year and the current half-year.

Prepayment of municipal tax—condition precedent to registration.

Powers to seize carriages and carts not bearing numbers.

108. If a municipal number is not affixed to a carriage or cart in pursuance of a direction issued under Section 104 or Section 105, as the case may be, the executive authority may at any time seize and detain the vehicle and the animal, if any, by which it is drawn:

Seizure of vehicles not bearing numbers.

Provided that no vehicle other than a bicycle, tricycle, motor-bicycle or rickshaw shall be seized or detained when actually employed in the conveyance of any passenger or goods.

109. If the vehicle or animal seized under Section 108 be not claimed and the tax due thereon paid within ten days from the date of seizure, the executive authority may direct that the vehicle or animal shall be sold in public auction and the proceeds of the sale applied to the payment of—

Vehicles not claimed within ten days to be sold.

(i) the tax, if any, due on the vehicle or animal sold;

(ii) such penalty not exceeding the amount of the tax as the executive authority may direct; and

(iii) a sum of one rupee on account of charges incurred in connexion with the seizure, detention and sale.

110. If the owner of the vehicle or animal seized under Section 108 or other person entitled hereto claims the same within ten days from the date of seizure or at any time before the sale, it shall be returned to him on payment of—

When seized vehicles to be returned.

(i) the tax due thereon;

(ii) such penalty not exceeding the amount of the tax as the executive authority may direct; and

(iii) such sum as may be prescribed on account of charges incurred in connexion with the seizure and detention.

Tolls.

111. If the council by a resolution determines that tolls shall be levied on vehicles and animals entering the municipality, such tolls shall be levied at the rates fixed by the council in accordance with Schedule II and specified in the notification published under Section 79 in pursuance of such resolution and from the date specified in such notification:

General provisions for tolls on vehicles and animals.

Provided that no toll shall be leviable on any vehicle or animal—

(*a*) licensed or registered by the municipal council,

(*b*) belonging to Our Government or the municipality, or declared by Our Government as belonging to the Palaces or the Residency,

(*c*) exempted by notification in Our Government Gazette,

(*d*) carrying any municipal or police officer on duty, or

(*e*) carrying any person or property in the custody of a police officer.

Construction of toll stations and collection of tolls.

112. (1) The council shall construct toll-stations and may construct toll-bars on or within the municipal boundary, and

(i) may place the collection of the tolls under the management of such persons as it thinks fit, or

(ii) may farm them out on such terms and conditions as it thinks fit, with liberty to the farmer to exercise all or any of the powers conferred by or under this Act for the levy and collection of tolls :

Provided that—

(*a*) No toll-stations shall be constructed on the boundary between contiguous municipalities, and

(*b*) Our Government may either generally or in any particular case issue such orders as they may deem fit for regulating the number and location of toll-stations, and determining, in the case of neighbouring local authorities, which of the local authorities shall be in charge of particular toll-stations and how much of the revenue realised by any such local authority from a toll-station or toll-stations in its charge shall be paid to another neighbouring local authority.

Composition.

(2) With the sanction of the council or in accordance with regulations framed by that body, the executive authority may, whether the tolls have been farmed out or not, compound with any person living outside the municipality for a certain sum to be paid yearly or half-yearly in lieu of all tolls payable under the provisions of this Act.

Procedure in case of non-payment of tolls

113. (1) If the toll leviable on a vehicle or animal is not paid on demand, the person appointed to collect it may seize and detain such portion of the appurtenances or load of such vehicle, or animal as will, in his opinion, suffice to defray the amount due; in the absence of such appurtenances or load or in the event of their value being insufficient to defray the amount due, he may seize and detain the vehicle or animal.

(2) All property seized under sub-section (1) shall be sent within twenty-four hours to the executive authority or to such person as he may have authorised to receive and sell such property and the executive authority shall forthwith give notice to the

proprietor of the property seized, or, if the proprietor is not known, or is not resident within the municipality, to the person who was in charge of the said property at the time when it was seized or, if such person cannot be found, publish by beat of drum, that after the expiry of two days, exclusive of Sunday, from the date of service or publication of such notice, the property will be sold in auction at a place to be specified in the notice.

(3) If at any time before the sale has begun the amount due on account of the toll, together with such sum as may be prescribed on account of charges incurred in connection with the seizure and detention, is tendered to the executive authority or other person authorized as aforesaid, the property seized shall be forthwith released.

(4) If no such tender is made, the property may be sold and the proceeds of the sale applied to the payment of

(i) the amount due on account of the toll;

(ii) such penalty not exceeding the amount of the toll as the executive authority may direct; and

(iii) a sum of eight annas on account of charges incurred in connection with the seizure, detention and sale.

Attempts to evade payment of tolls.

114. No person shall with intent to evade payment of toll cause a vehicle or animal

(a) to pass a toll-station in a rapid or surreptitious manner;

(b) to pass a toll-station without stopping if he is required by the toll-keeper to stop; or

(c) to leave a street on which a toll-station has been placed and pass over any adjacent land, not being either a public street or land of which such person is the owner or occupier.

Table of tolls.

115. At every toll-station, a table of the tolls leviable shall be put up legibly written or painted in English and in the language or languages of the district in some conspicuous place near such toll-station and in the absence of such table no tolls shall be leviable at the station.

Tax on Advertisements.

Tax on advertisements.

116. Every person who erects, exhibits, fixes or retains upon or over any land, building, wall, hoarding or structure any advertisement or who displays any advertisement to public view in any manner whatsoever in any place whether public or private shall pay on every advertisement which is so erected, exhibited, fixed, retained or displayed to public view a tax calculated

at such rates and in such manner and subject to such exemptions as the council may, with the approval of Our Government, by resolution determine :

Provided always that the rates shall be subject to the maxima and minima laid down by Our Government in this behalf :

Provided also that no tax shall be levied under this Section on any advertisement or a notice—

(*a*) of a public meeting, or

(*b*) of an election to any legislative body or the municipal council, or

(*c*) of a candidature in respect of such an election :

Provided further that no such tax shall be levied on any advertisement which is not a sky-sign and which—

(*a*) is exhibited within the window of any building ; or

(*b*) relates to the trade or business carried on within the land or building upon or over which such advertisement is exhibited, or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held upon or in the same ; or

(*c*) relates to the name of the land or building upon or over which the advertisement is exhibited, or to the name of the owner or occupier of such land or building ; or

(*d*) relates to the business of any railway company ; or

(*e*) is exhibited within any railway station or upon any wall or other property of a railway company except any portion of the surface of such wall or property fronting any street.

Explanation 1. The word 'structure' in this Section shall include any movable board on wheels used as an advertisement or an advertisement medium.

Explanation 2. The expression 'sky-sign' shall, in this Section, mean any advertisement supported on or attached to any post, pole, standard, frame-work or other support wholly or in part upon or over any land, building, wall or structure which, or any part of which sky-sign shall be visible against the sky from some point in any public place and includes all and every part of any such post, pole, standard, frame-work or other support. The expression 'sky-sign' shall also include any balloon, parachute or other similar device employed wholly or in part for the purposes of any advertisement upon or over any land, building or structure or upon or over any public place but shall not include—

(*a*) any flagstaff, pole, vane or weather-cock, unless adapted or used wholly or in part for the purpose of any advertisement ; or

(*b*) any sign, or any board, frame or other contrivance securely fixed to or on the top of the wall or parapet of any building, or on the cornice or blocking course of any wall, or to the ridge of a roof :

Provided that such board, frame or other contrivance be of one continuous face and not open work, and do not extend in height more than three feet above any part of the wall, or parapet or ridge to, against or on which it is fixed or supported ; or

(*c*) any advertisement relating to the name of the land or building, upon or over which the advertisement is exhibited, or to the name of the owner or occupier of such land or building ; or

(*d*) any advertisement relating exclusively to the business of a railway company, and placed wholly upon or over any railway, railway station, yard, platform or station approach belonging to a railway company and so placed that it cannot fall into any street or public place ; or

(*e*) any notice of land or buildings to be sold or let, placed upon such land or buildings.

Explanation 3. 'Public place' shall, for the purpose of this Section, mean any place which is open to the use and enjoyment of the public whether it is actually used or enjoyed by the public or not.

Prohibition of advertisement without written permission of the executive authority.

117. (1) No advertisement shall, after the levy of the tax under Section 116 has been determined upon by the council, be erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding or structure within the municipality or shall be displayed in any manner whatsoever in any place without the written permission of the executive authority.

(2) The executive authority shall not grant such permissions if—

(i) the advertisement contravenes any bye-law made by the council under clause (xxx) of Section 326 ; or

(ii) the tax, if any, due in respect of the advertisement has not been paid.

(3) Subject to the provisions of sub-section (2) in the case of an advertisement liable to the advertisement tax, the executive authority shall grant permission for the period to which the payment of the tax relates and no fee shall be charged in respect of such permission :

Provided that the provisions of this Section shall not apply to any advertisement erected, exhibited, fixed or retained on the premises of a railway company relating to the business of a railway company.

118. The permission granted under Section 117 shall become void in the following cases, namely :—

Permission of the executive authority to become void in certain cases.

(*a*) if the advertisement contravenes any bye-law made by the council under clause (xxx) of Section 326 ;

(*b*) if any addition to the advertisement be made except for the purpose of making it secure under the direction of the municipal council engineer ;

(*c*) if any material change be made in the advertisement or any part thereof;

(*d*) if the advertisement or any part thereof falls otherwise than through accident ;

(*e*) if any addition or alteration be made to, or in the building, wall or structure upon or over which the advertisement is erected, exhibited, fixed or retained, if such addition or alteration involves the disturbance of the advertisement or any part thereof ; and

(*f*) if the building, wall or structure upon or over which the advertisement is erected, exhibited, fixed or retained be demolished or destroyed.

Owner or person in occupation to be deemed responsible.

119. Where any advertisement shall be erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding or, structure in contravention of the provisions of Section 116 or Section 117 or after the written permission for the erection, exhibition, fixation or retention thereof for any period shall have expired or become void, the owner or person in occupation of such land, building, wall, hoarding or structure shall be deemed to be the person who has erected, exhibited, fixed or retained such advertisement in such contravention unless he proves that such contravention was committed by a person not in his employment or under his control or was committed without his connivance.

Removal of unauthorised advertisements.

120. If any advertisement be erected, exhibited, fixed or retained contrary to the provisions of Section 116 or Section 117 or after the written permission for the erection, exhibition, fixation or retention thereof for any period shall have expired or become void, the executive authority may, by notice in writing, require the owner or occupier of the land, building, wall, hoarding or structure upon or over which the same is erected, exhibited, fixed or retained, to take down or remove such advertisement or may enter any building, land or property and have the advertisement removed.

121. The executive authority may farm out the collection of any tax on advertisements leviable under Section 116 for any period not exceeding one year at a time on such terms and conditions as may be provided for by bye-laws made under Section 326.

Collection of tax on advertisements.

Tax on Entertainments.

122. Every person who conducts, holds or manages any entertainment in any place within the municipality shall, in accordance with rules framed in that behalf by Our Government, pay on every such entertainment a tax calculated at such rates and in such manner as the council may, with the approval of Our Government, by resolution determine :

Tax on entertainments.

Provided always that the rates shall be subject to the maxima and minima laid down by Our Government in this behalf :

Provided further that the entertainment tax shall not be levied in the case of an entertainment—

(*a*) which is of a wholly educational character ;

(*b*) which is provided partly for educational or scientific purposes by a society not established for profit ;

(*c*) which is provided by a society established solely for the purpose of promoting public health or the interest of agriculture or a manufacturing industry and not conducted for profit and which entertainment consists solely of an exhibition of articles which are of material interest in connection with questions relating to public health or agriculture or of the product of the industry for promoting the interests of which the society exists or of the materials, machinery, appliances or food stuffs used in the production of these products ; or

(*d*) the whole of the net proceeds of which is devoted to philanthropic or religious or charitable purposes :

Provided also that Our Government may by order exempt any class of entertainments from liability to entertainment tax and may in consultation with or at the instance of the council by special order exempt any particular entertainment from tax.

Explanation. Entertainment includes any exhibition, performance, amusement, game or sport to which persons are admitted for payment.

123. No entertainment shall after the levy of the tax under Section 122 has been determined upon by the council be held, conducted or performed in any place within the municipality without the written consent of the executive authority.

Prohibition of entertainment without permission.

General provisions regarding taxation and finance.

124. With the sanction of Our Government the municipal council may exempt any person or class of persons, wholly or in part from the payment of any tax or toll. But nothing in this Section shall be deemed to authorize the exemption of any person solely on the ground that he is a member of a municipal council.

Power to exempt from taxes or tolls.

125. The municipal council may, with the previous sanction of Our Government, write off any tax, toll, fee or other amount whatsoever due to it, whether under a contract or otherwise, or any sum payable in connection therewith, if in its opinion, such tax, toll, fee, amount or sum is irrecoverable.

Power to write off irrecoverable taxes and tolls, etc.

126. All moneys received by the municipal council shall constitute a fund which shall be called the municipal fund and shall be applied and disposed of subject to the provisions of this Act or other laws.

Definition of municipal fund.

127. The municipal council shall, before the end of Medam in each year, frame a budget showing the probable receipts and the expenditure which it proposes to incur during the following year and shall submit a copy of the budget to Our Government before such date as may be fixed by them in that behalf. The budget shall contain provision, adequate in the opinion of Our Government, for the due discharge of all liabilities in respect of loans contracted by the council and for the maintenance of a working balance; and if the budget as submitted to Our Government fails to make these provisions, Our Government may modify any part of the budget so as to ensure that such provisions are made.

Budget estimate.

128. If in the course of a year a municipal council finds it necessary to modify the figures shown in the budget with regard to its receipts or to the distribution of the amounts to be expended on the different services it undertakes, it may submit a supplemental or revised budget provided that no alteration shall be made without the consent of Our Government in the amount allotted for the service of debt or in the working balance.

Revised or supplemental budget.

129. Our Government shall appoint auditors of the account of receipt and expenditure of the municipal fund. Such auditors shall be deemed to be 'public servants,' within the meaning of Section 15 of the Travancore Penal Code.

Appointment of auditors of accounts.

130. If the expenditure incurred by Our Government or by any other municipality to which this Act applies or by any other local authority in Travancore for any purpose authorised by or under Part II of Schedule II is such as to benefit the inhabitants of a municipality, the municipal council may, with the sanction of Our Government, make a contribution towards such expenditure.

Contributions to expenditure by other local authorities.

131. Our Government may direct a municipal council to show cause, within a month after receipt of the order containing the direction, why any contribution described in Section 130 should not be made.

Time within which contribution should be objected to.

132. If the municipal council fails to show cause within the period prescribed in Section 131 to the satisfaction of Our Government, Our Government may direct it to make such contribution as they shall name, and it shall be paid accordingly.

Contribution to be paid as per final orders of Government.

133. The Rules and tables embodied in Schedule II shall be read as part of this Chapter.

Application of Schedule II.

134. Our Government shall be entitled to recover in the manner provided by sub-section (4) of Section 42 of this Act or by suit any loan or advance made to any municipal council for any purpose to which the funds of the said council may be applied under this Act.

Recovery of loans and advances made by Our Government.

PART IV—PUBLIC HEALTH—SAFETY AND CONVENIENCE.

CHAPTER. VII—WATER-SUPPLY, LIGHTING AND DRAINAGE.

Water supply—Vesting of works and powers of municipal authorities.

135. All public reservoirs, tanks, cisterns, fountains, wells, pumps, pipes, taps, conduits, aqueducts and other works (not vested in Our Government) connected with the supply of water to the municipality whether made at the cost of the council or otherwise, and all bridges, buildings, engines, works, material and other things connected therewith and all land (not being private property or property vested in Our Government), adjacent and appertaining to the same shall vest in the council and be subject to its control.

Vesting of works in municipal councils.

136. (1) Our Government, or the council with the sanction of Our Government may construct, lay, or erect filtering tanks reservoirs, engines, conduits, pipes or other works within or without the limits of the municipality for supplying it with water and may provide tanks, reservoirs, engines, mains, fountains and other conveniences within the said limits for the use of the inhabitants.

Construction of water works and provision of gratuitous supply of drinking water.

(2) Our Government or the council may provide a supply of drinking water within the municipality and may erect stand pipes, fountains or other conveniences for the gratuitous supply of water.

(3) Any water-supply system constructed by and vesting in Our Government may on such times as may be settled by Our Government and the municipal council be handed over to the municipal council for its being worked out and so long as the arrangement lasts, the water-supply shall for the purposes of this Chapter be deemed a municipal water supply.

(4) Notwithstanding anything contained in sub-section (3), it shall be lawful for Our Government to work the Government water-supply system through their own officers and in such cases an annual contribution of such amount as may be fixed by Our Government after ascertaining the views of the council shall be paid by the council to Our Government.

137. It shall not be lawful for any person except with permission duly obtained to enter on land vested in Our Government or the council along which a conduit or pipe runs or any premises connected with the water supply.

Trespass on premises connected with water-supply

138. (1) Without the permission of the council no building, wall or other structure shall be newly erected and no street or railway shall be constructed over any municipal water mains.

Prohibition on building over water mains.

(2) If any building, wall or other structure be so erected or any street or railway be so constructed, the council may cause the same to be removed or otherwise dealt with as shall appear to it fit and the expenses thereby incurred shall be paid by the persons offending.

Supply for domestic use.

139. The municipal council shall, so far as the funds at its disposal may admit, provide a sufficient supply of water fit for the domestic use of the inhabitants.

Council to provide water for domestic use.

140. All house connections, whether within or without the premises to which they belong, with any water-supply mains which may have been constructed by a municipal council shall be under the control of the council, but shall be altered, repaired and kept in proper order, at the expense of the owner of the premises to which they belong or for the use of which they were constructed, and in conformity with the bye-laws and regulations framed by the council in this behalf.

Control over house connections.

141. (1) In municipalities in which there is a pipe supply of water, the executive authority may, at his discretion, on application by the owner or occupier of any building, arrange in accordance with the bye-laws, to supply water thereto for domestic consumption and use:

Private water-supply for consumption and domestic use and power of executive authority to enforce provision of water supply.

Provided that the executive authority shall not, without the sanction of the council agree to supply water to any building assessed at an annual value of less than one hundred and twenty rupees.

(2) Whenever it appears to the executive authority that any dwelling-house assessed at an annual value of not less than two hundred rupees is without a proper supply of water for domestic consumption and use and that such a supply can be furnished from a main not more than one hundred feet distant from any part of such building, the executive authority may by notice require the owner to obtain such supply and to execute all such works as may be necessary for that purpose in accordance with the bye-laws and regulations.

(3) The cost of making the connection and the cost or hire of meters shall be borne by the owner or applicant and shall be recoverable in the same manner as the property tax.

Explanation.—Supply of water for domestic consumption and use shall not be deemed to include a supply—

(*a*) for any trade, manufacture or business,
(*b*) for gardens or for purposes of irrigation,
(*c*) for building purposes,
(*d*) for fountains, swimming baths, public baths, tanks in or near temples, churches and mosques within the municipality or for any ornamental or mechanical purpose,
(*e*) for animals, or for washing vehicles where such animals or vehicles are kept for sale or hire ;

but shall be deemed to include a supply—

(i) for flushing latrines,
(ii) for all baths other than swimming baths or public baths,
(iii) for the consumption and use of inmates or hotels, boarding houses and the like and for baths used by such inmates.

Private water-supply for non domestic purposes.

Power of executive authority to supply water for non-domestic purposes at rate fixed by the council.

142. The executive authority may, subject to such rules as may be framed by Our Government from time to time and with the sanction of the council, supply water for any purpose other than domestic consumption and use on receiving a written application specifying the purpose for which such a supply is required and the quantity likely to be consumed.

Payment for water.

Payment for water supplied under Section 141 or 142.

143. (1) For all water supplied under Section 141 or 142 payment shall be made on such basis, at such terms and on such conditions as shall be laid down in the bye-laws made by the council, and shall be recoverable in the same manner as the property tax.

(2) In particular and without prejudice to the generality of the foregoing power, such bye-laws may—

(*a*) in cases of supply for domestic consumption and use, lay down the maximum free allowance to be made and the rates of charges to be levied in respect of water to be supplied in excess of such allowance ; and

(*b*) in cases of supply for domestic consumption and use or for other purposes, or any class of such cases lay down that the charge for water supplied shall be based on the number of taps allowed, irrespective of the quantity of water consumed.

Supply beyond limits of municipality.

144. The council may with the sanction of and on such terms (if any) as may be approved by Our Government supply water to a local authority or other person without the municipality.

Supply without the municipality.

Cutting off water supply.

145. (1) The executive authority may cut off the supply of municipal water from any premises—

Power to cut off water supply.

(*a*) if the premises are unoccupied ;

(*b*) if any water tax or any sum due for water for the cost of making a connection or for the cost or hire of a meter or for the cost of carrying out any work or test connected with the water supply which is chargeable to any person by or under this Act, is not paid within fifteen days after a bill for such tax or sum has been presented ;

(*c*) if after receipt of a notice from the executive authority requiring him to refrain from so doing, the owner or occupier continues to use the water or to permit it to be used in contravention of any bye-law made under this Act ;

(*d*) if the owner or occupier neglects within a period specified in any notice issued by the executive authority under any bye law made under this Act to put a meter or to comply with any other lawful order or requisition ;

(*e*) if the owner or occupier wilfully or negligently damages his meter or any pipe or tap conveying municipal water ;

(*f*) if the occupier refuses to admit the executive authority into premises which he proposes to enter for the purpose of executing any work or of placing or removing any apparatus or of making any examination or inquiry in connection with the water-supply, or prevents the executive authority doing such work, placing or removing such apparatus or making such examination or inquiry ;

(*g*) if any pipes, taps, works or fittings connected with the municipal water supply are found on examination by the executive authority to be out of repair to such an extent as to cause waste or contamination of water ;

(*h*) if the owner or occupier causes pipes, taps, works or fittings connected with the municipal water supply to be placed, removed, repaired or otherwise interfered with in violation of the bye-laws :

Provided that in cases under sub-clauses (*e*), (*f*), (*g*) and (*h*) the executive authority shall not take action unless notice of not less than twenty-four hours has been given to the owner or occupier of the premises.

(2) The expense of cutting off the supply shall be paid by the owner or occupier of the premises.

(3) In cases under clause (*b*) as soon as any money for non-payment of which water has been cut off together with the expense of cutting off the supply, has been paid by the owner or occupier, the executive authority shall cause water to be supplied as before on payment of the cost (if any) of re-connecting the premises with the municipal water works.

(4) No action taken under this Section shall relieve any person from any penalties or liabilities which he may otherwise have incurred.

Non-liability of council for reduction or stoppage of supply in certain cases.

146. The municipal council shall not be liable to any penalty or damages for cutting off the supply of water or for not supplying water (save in the case of express stipulation in an agreement for the supply of water for other than domestic purposes) in the case of any drought, or other unavoidable cause or accident, or the necessity for relaying or repairing pipes.

Lighting.

Provision for lighting public streets.

147 The municipal council shall, so far as the funds at its disposal permit, cause the public streets to be lighted and for that purpose shall provide such lamps and works as it thinks necessary.

Public drainage.

148. The municipal council shall, so far as the funds at its disposal may admit, provide and maintain a sufficient system of public drains.

Maintenance of system of drainage by council.

Private drainage.

149. All house drains whether within or without the premises to which they belong and all private latrines and cess pools within the municipality shall be under the control of the municipal council but shall be altered, repaired, cleansed, and kept in proper order, at the expense of the owner of the premises to which the same belong or for the use of which they were constructed and in conformity with bye-laws and regulations framed by the council in this behalf.

Control over house drains, privies and cess pools.

150. (1) The executive authority shall on application by the owner or the occupier of any premises or the owner of a private street arrange, in accordance with the bye-laws, for the connection of the applicant's drain with any public drain at a distance not exceeding three hundred feet therefrom at the applicant's expense.

Connection of house drains with public drains.

(2) If there is a public drain or outfall within a distance not exceeding one hundred feet of the nearest point on any premises, the executive authority may by notice direct the owner of the said premises to construct a drain leading therefrom to such drain or place of outfall, and to execute all such works as may be necessary in accordance with the bye-laws and regulations at such owner's expense.

(3) If any premises are in the opinion of the executive authority, without sufficient means of effectual drainage, but no part thereof is situated within one hundred feet of a public drain or its place of outfall, the executive authority may by notice direct the owner of the said premises to construct a cess pool or septic tank or filters of such material, dimensions and description, in such position and at such level as the executive authority thinks necessary, and to construct a drain or drains emptying into such cess pool, tank or filters and execute all such works as may be necessary in accordance with the bye-laws and regulations.

Provided that—

(*a*) no requisition shall be made under this Section on any person who has been exempted from payment of the property tax under sub-section (5) of Section 82 :

(*b*) no person shall be required under this Section to expend a sum exceeding five times the property tax on any such building, with the land assessed with it as part of the same premises, or in the case of buildings exempted under Section 82, five times the property tax which would be payable on such building with the land which would be assessed with it to the property tax if such building were not exempt and if any amount exceeding the said sum is expended, the excess shall be borne by the council.

Executive authority may close or limit the use of existing private drains.

151. (1) Where a drain connecting any premises with a public drain or other place set apart by the municipal council for the discharge of drainage is sufficient for the effectual drainage thereof and is otherwise unobjectionable but is not, in the opinion of the executive authority, adapted to the general drainage system of the municipality or part of the municipality in which such drain is situated, the executive authority with the approval of the council may—

(*a*) subject to the provisions of sub-section (2) close, discontinue or destroy the said drain and do any work necessary for that purpose ; or

(*b*) direct that such drain shall, from such date as he specifies in this behalf be used for sullage and sewage only, or for water unpolluted with sullage or sewage only, and by notice require the owner of the premises to make, at his own expense, an entirely distinct drain for water unpolluted with sullage, or sewage or for sullage and sewage.

(2) No drain may be closed, discontinued or destroyed by the executive authority under clause (1) (a) except on condition of his providing another drain as effectual for the drainage of the premises and communicating with a public drain or other place aforesaid ; and the expense of the construction of any drain so provided by the executive authority and of any work done under clause (1) (*a*) shall be paid by the council.

Power of executive authority to drain premises in combination.

152. (1) When the executive authority is of opinion that any group or block of premises, any part of which is situate within one hundred feet of a municipal drain already existing, or about to be constructed, may be drained more economically or advantageously in combination than separately, the executive authority may,

with the approval of the council, cause such group or block of premises to be drained by such method as appears to the executive authority to be best suited therefor and the expenses incurred by the executive authority in so doing shall be paid by the owners in such proportions as the council may decide.

(2) Not less than fifteen days before any work under this Section is commenced, the executive authority shall give notice, to the owners, of—

(*a*) the nature of the intended work,

(*b*) the estimated expenses thereof, and

(*c*) the proportion of such expenses payable by each owner.

(3) The owners for the time being of the several premises constituting a group or block drained under sub-section (1) shall be the joint owners of every drain constructed, erected or fixed, or continued for the special use and benefit only of such premises and shall in the proportion in which it is determined that they are to contribute to the expenses incurred by the executive authority under sub-section (1) be responsible for the expense of maintaining every such drain in good repair and efficient condition.

Building etc. not to be erected without permission over drains.

153. (1) Without the permission of the council no person shall place or construct any fence, building, culvert, drain-covering, drain or other structure or any street railway or cable over, under, in or across any public drain, or stop up, divert, obstruct or in any way interfere with any public drain, whether it passes through public or private ground.

(2) The executive authority may remove or otherwise deal with anything placed or constructed in contravention of sub-section (1) as he shall think fit, and the cost of so doing shall be recoverable from the owner thereof in the manner provided in Section 365.

Construction of culverts or drain coverings by owner or occupier.

154. (1) The executive authority may by notice require the owner or occupier of any building or land adjoining a public street to construct culverts or drain-coverings over the side channels or ditches at the entrances to the said building or land.

(2) All culverts or drain coverings or pials maintained over side-channels or ditches by the owners or occupiers of adjacent buildings or lands shall be of such form and size and consist of such materials and be provided with such means of ventilation as the executive authority may by notice require and shall be maintained and kept free from all obstruction at the expense of the said owners or occupiers.

155. The owner or occupier of any building in a public street shall, within fifteen days after receipt of notice in that behalf from the executive authority put up and thencefor ward maintain proper troughs and pipes for catching and carrying the water from the roof and other parts of such building and for discharging such water in such manner as the executive authority may permit.

Maintenance of trough and pipes for catching water.

Public latrines.

156. The council shall provide and maintain in proper and convenient places a sufficient number of public latrines and shall cause the same to be daily cleansed and kept in proper order.

Provision of public latrines and urinals.

Private latrines.

157. (1) The executive authority may by notice require the owner or occupier of any building within the time specified in such notice to provide a latrine or alter or remove from an unsuitable to a more suitable place any existing latrine in accordance with the directions contained in such notice for the use of the persons employed in or about or occupying such building and to keep it clean and in proper order.

Provision of latrines by owner or occupier.

(2) Every owner or occupier of the ground on which any group of six or more huts stands shall provide latrines of such description and number and in such position as the executive authority may by notice require within such time as may be fixed in the notice, for the use of the inhabitants of such huts.

158. Every person employing workmen, labourers or other persons exceeding ten in number, shall provide and maintain for the separate use of persons of each sex so employed latrines of such description and number and in such position as the executive authority may by notice require, within such time as may be fixed in the notice.

Provision of latrines for labourers.

159. The executive authority may by notice require the owner or manager of a market, cart stand, cattle stand, choultry, theatre, railway station, dock, wharf or other place of public resort within the time specified in such notice to provide and maintain for the separate use of persons of each sex latrines of such description and number and in such position as may be specified in such notice.

Provision of latrines for markets, cart-stands, cattle sheds, choultry etc.

160. All latrines shall be so constructed as to screen persons using the same and the filth from the view of persons passing by or residing in the neighbourhood and shall be kept clean and in proper order.

Latrines to be screened from view and kept clean.

General powers.

161. The executive authority may carry any cable, wire, pipe, drain or channel of any kind to establish or maintain any system of drainage, water supply or lighting, through, across, under, or over any road, street or place laid out for a road or street, and after giving reasonable notice to the owner or occupier, through, across, under, over or up the side of, any land or building in the municipality, and may place and maintain posts, poles, standards, brackets, or other contrivances to support wires and lights on any pole or post in the municipality not owned by Our Government or the Government of India, and may do all acts necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain, channel, posts, pole, standard, bracket or other similar contrivance in an effective state for the purpose of which it is intended to be used or for removing the same :

Power to carry wire pipes, drains etc., through private property subject to causing as little inconvenience as possible and paying for direct damage.

Provided that such work shall be done so as to cause the least practicable nuisance or incovenience to any person ;

Provided further that the executive authority shall, with the sanction of the council, pay compensation to any person who sustains damage by the exercise of such power.

162. (1) No person shall, without the permission of the executive authority, make any connection with any municipal cable, wire, pipe, drain or channel or with the house connection of any other person.

Prohibition against making connection with mains without permission.

(2) The executive authority may by notice require any connection made in contravention of sub-section (1) to be demolished, removed, closed, altered or re-made.

163. (1) The municipal council shall not undertake new works beyond the limits of the municipality without the sanction of Our Government.

Powers in respect of works outside the municipality.

(2) The council may in execution and for the purpose of any works beyond the limits of the municipality sanctioned by Our Government whether before or after the passing of this Act, exercise all

the powers which it may exercise within the municipality throughout the line of the country through which conduits, channels, pipes, lines of posts and wires and the like run, and with the sanction of Our Government—

(*a*) over any lake, tank or reservoir, from which a supply of water for drinking, for producing electric energy or for other purposes is derived, and over all lands within one mile of the high water level of any such lake, tank or reservoir.

(*b*) over any water-course from which a supply of water for drinking, for producing electric energy or for other purposes is derived, within one mile above and half a mile below any point at which water is taken for such use, and

(*c*) over any lands used for sewage farms, sewage disposal tanks, filters and other works connected with the drainage of the municipality.

Chapter VIII.—Scavenging.

Municipality to arrange for the removal of rubbish and filth.

164. Every municipal council shall make adequate arrangements for—

(*a*) the regular sweeping and cleansing of the streets and removal of sweepings therefrom ;

(*b*) the daily removal of filth and the carcasses of animals from private premises ; and

(*c*) the daily removal of rubbish from dust-bins and private premises ; and with this object, it shall provide

(i) depots for the deposit of filth, rubbish and the carcasses of animals ;

(ii) covered vehicle or vessels for the removal of filth ;

(iii) vehicles or other suitable means for the removal of the carcasses of large animals and rubbish ; and

(iv) dust-bins for the temporary deposit of rubbish.

Contributions from persons having control over places of pilgrimage, etc.

165. Where a church, mosque, temple, mutt or any place of religious worship or instruction or any place which is used for holding fairs, festivals or for other like purposes is situated within the limits of a municipality or in the neighbourhood thereof and attracts either throughout the year or on particular occasions a large number of persons, any special arrangements necessary for public health, safety or convenience whether permanent or temporary shall be made by the municipal council, and the council may require the trustee or other person having control over such place to make such recurring or non-recurring contribution as Our Government may determine to the funds of the municipal council.

166. No person shall after due provision has been made under Section 164 by the municipal council for the deposit and removal of the same ;

Prohibition of improper disposal of carcasses, rubbish and filth.

(*a*) deposit the carcasses of animals, rubbish or filth, in any street, or on the veranda of any building or on any unoccupied ground alongside any street or on any public quay, jetty or landing-place, or on the bank of a water-course or tank; or

(*b*) deposit filth or carcasses of animals in any dust-bin or in any vehicle not intended for the removal of the same ; or

(*c*) deposit rubbish in any vehicle or vessel intended for the removal of filth save for the purpose of deodorising or disinfecting the filth.

167. No owner or occupier of any premises shall keep or allow to be kept for more than twenty-four hours any filth on such premises or any building or on the roof thereof or in any out-building or any place belonging thereto, or fail to complywith any requisition of the executive authority as to the construction, repair, paving or cleansing of any latrine on or belonging to his premises.

Prohibition against keeping filth on premises too long, etc.

168. No owner or occupier of any premises shall allow the water from any sink, drain, latrine or stable, or any other filth to flow out of such premises to any portion of a street except a drain or a cess-pool or to flow out of such premises in such a manner as to cause an avoidable nuisance by the soakage of the said water or filth into the walls or ground at the side of a drain forming a portion of a street.

Prohibition against allowing outflow of filth.

169. No person shall, in the removal of filth, use any cart or receptacle not having a covering proper for preventing the escape of the contents thereof, or of the stench therefrom, or intentionally or negligently spill any filth in the removal thereof, or omit carefully to sweep and clean every place in which any such filth has been spilled, or place or set down in any public place any filth whether in a vessel closed or open.

Prohibition aganist using any cart without cover in the removal of filth etc.

170. No person shall put or cause to be put any rubbish or filth into any public drain not intended for rubbish or filth or into any drain communicating with any such public drain.

Prohibition against throwing rubbish or filth into drains.

171. No person shall commit a nuisance by easing himself in any street, public place or thoroughfare or permit any person under his control to commit a nuisance as abovesaid.

Prohibition against committing nuisance in public streets etc.

Chapter IX.—Streets.

Public streets.

172. (1) The municipal council shall, at the cost of the municipal fund, cause the public streets and bridges vested in and under the control of the municipal council to be maintained and repaired and may from the same fund meet the cost of all improvements to the same which are necessary or expedient for the public safety or convenience.

Maintenance and repair of streets.

(2) The council may entrust to any other local authority with the consent of such authority the maintenance of such public street or portion thereof, the cost of maintenance being provided by the council.

173. (1) The council may—

Power of municipal authorities.

(*a*) lay out and make new public streets;

(*b*) construct bridges and sub-ways;

(*c*) turn, divert or with the special sanction of Our Government permanently close any public street or part thereof;

(*d*) widen, open, extend or otherwise improve any public street.

(2) Reasonable compensation shall be paid to the owners and occupiers of any land or buildings which are required for or affected by any such purposes.

174. (1) When a public street is permanently closed under section 173, the municipal council may, with the sanction of Our Government, dispose of the site or of so much thereof as is no longer required, in such manner as may be approved by Our Government, provided that due compensation is made to any person injured by such closing.

Power to dispose of permanently closed streets.

(2) In determining such compensation, allowance shall be made for any benefit accruing to the same premises or any adjacent premises belonging to the same owner from the construction or improvement of any other public streets at or about the same time that the public street, on account of which the compensation is paid, is closed.

175. (1) The council may acquire—

Acquisition of land and buildings for improvement of streets.

(*a*) any land required for the purpose of opening, widening, extending, or otherwise improving any public street, or of making any new public street, and the buildings, if any, standing upon such land; and

(*b*) any land outside the proposed street alignment, with the buildings, if any, standing thereupon :

Provided that, in any case in which it is decided to acquire any land under clause (*b*) of this sub-section, the owner of such land may retain it by paying to the municipal council an annual sum to be fixed by the council in that behalf, or a lump sum to be fixed by the council, not being less than twenty-five times such annual sum and subject to such conditions as the council thinks fit as to the removal of the existing building if any, the description of the new building (if any) to be erected, the period within which the new building (if any) shall be completed and any other similar matters.

(2) If any sum payable in pursuance of the proviso to sub-section (1) in respect of any land be not duly paid, it shall be recoverable in the manner provided by this Act for the collection of taxes, and, if not so recovered, the executive authority may enter upon the land, and sell it, with any erections standing thereon, by public auction subject to the conditions, if any, imposed under sub-section (1) above and may deduct the said sum and the expenses of the sale from the proceeds of the sale and shall pay the balance (if any) to the defaulter.

(3) Any sum paid in pursuance of the proviso to sub-section (1) or recovered under sub-section (2) in respects of any land shall be left out of account in determining the annual value of such land for the purpose of assessing it to the property tax.

(4) Any land or building acquired under sub-section (1), clause (*b*), may be sold, leased or otherwise disposed of after public advertisement, and any conveyance made for that purpose may comprise such conditions as the council thinks fit as to the removal of the existing building, if any, the description of the new building (if any) to be erected, the period within which the new building (if any) shall be completed and any other similar matters.

(5) The council may require any person to whom any land or building is transferred under sub-section (4) to comply with any conditions comprised in the said conveyance before it places him in possession of the land or building.

176. The council may—

Power to prescribe building line and street alignment.

(*a*) prescribe for any public street a building line or a street alignment or both ;

(*b*) from time to time define a fresh line in substitution for any line so defined or for any part thereof ;

Provided that in either case—

(i) at least one month before the meeting of the council at which the matter is decided, public notice of the proposal has been given and special notice thereof has also been put up in the street or part of the street for which such line is proposed to be defined; and

(ii) the council consider all objections to the said proposal made in writing and delivered at the municipal office not less than three clear days before the day of such meeting.

Buildings not to be constructed within street alignment or building line.

177. (1) No person shall construct any portion of any building within a street alignment defined under Section 176.

(2) No person shall erect or add to any building between a street alignment and a building line defined under Section 176, except with permission of the executive authority who may when granting permission impose such conditions as the council may lay down for such cases.

Setting back projecting buildings or walls.

178. (1) When any building or part thereof abutting on a public street is within a street alignment defined under Section 176, the executive authority may, whenever it is proposed,

(*a*) to rebuild such building or take it down to an extent exceeding one-half thereof above the ground level, such half to be measured in cubic feet; or

(*b*) to remove, reconstruct or make any addition to any portion of such building which is within the street alignment in any order which he issues concerning the rebuilding, alteration or repair of such building, to be set back to the street alignment.

(2) When any building or any part thereof within the street alignment falls down or is burnt down or is, whether by order of the executive authority or otherwise taken down, or when any private land without any building thereon lies within the street alignment, the executive authority may forthwith take possession on behalf of the council of the portion of land within the street alignment and, if necessary, clear it.

(3) Land acquired under this Section shall be deemed a part of the public street and shall vest in the municipal council.

(4) When any building is set back in pursuance of any requisition made under sub-section (1), or when the executive authority takes possession of any land under sub section (2), the council shall forthwith make full compensation to the owner for any direct damage which he may sustain thereby.

Explanation.—The expression 'direct damage as used in sub-section (4) with reference to land means the market value of the land taken and the depreciation, if any, in the ordinary market value of the rest of the land resulting from the area being reduced in size; but does not include damage due to the prospective loss of any particular use to which the owner may allege that he intended to put the land, although such use may be injuriously affected by the reduction of the site.

179. The council may, upon such terms as it thinks fit, allow any building to be set forward for the purpose of improving the line of a public street and may, by notice, require any building to be so set forward in the case of reconstruction thereof or of a new construction.

Setting buildings forward to improve line of street.

Explanation.—For the purpose of this Section a wall separating any premises from a public street shall be deemed to be a building; and it shall be deemed a sufficient compliance with permission or requisition to set forward a building to the street alignment if a wall of such material and dimensions as are approved by the executive authority is erected along the said line.

180. (1) The council may prepare schemes and plans of proposed public streets, showing the direction of such streets, the street alignment and building line on each side of them, their intended width and such other details as may appear desirable.

Projected streets.

(2) The width of such proposed streets shall not ordinarily be less than forty feet, or in any area covered by huts, twenty-two feet.

(3) It shall be the duty of the council to lay out public streets in areas covered by huts, so far as may be practicable, both for the purpose of securing proper ventilation for huts in such areas, and in view to the contingency of buildings being erected therein.

(4) When any plan has been prepared under sub-section (1), the street to which it refers shall be deemed to be a projected public street, and the provisions of Section 178 shall apply to all buildings, so far as they stand across the street alignment or building line of the projected street.

181. The council shall, so far as it considers it requisite for the public convenience, and so far as funds permit, cause the chief public streets to be watered, and for that purpose may provide such watercarts, animals and apparatus as it thinks necessary.

Watering of streets.

182. The executive authority may by an order in writing temporarily close any street to traffic for repair, or in order to carry out any work connected with drainage, water-supply or lighting or any of the purposes of this Act:

Temporary closure of streets.

Provided that such work shall be completed and such street reopened to traffic with all reasonable speed.

183. It shall not be lawful for any person, without the permission of the executive authority to displace, take up, or make any alteration in the fences, posts, pavement, flags or other materials of any public street.

Protection of appurtenances and materials of streets.

184. When by a certificate of an officer of the Government Public Works Department of a rank not below that of Executive Engineer it appears to the council that having regard to the average expense of repairing roads in the neighbourhood, extraordinary expenses have been incurred by the municipal council in repairing a street by reason of the damage caused by excessive weight passing along the street or extraordinary traffic thereon, the council may recover in the civil court having jurisdiction from any person by or in consequence of whose order such weight or traffic has been conducted the amount of such expenses as may be proved to the satisfaction of such court to have been incurred by such council by reason of the damage arising from such weight or traffic as aforesaid;

Power of municipality to recover expenses caused by extraordinary traffic.

Provided that any person against whom expenses are or may be recoverable under this Section may enter into an agreement with the council for the payment to it of a composition in respect of such weight or traffic and thereupon the persons so paying shall not be subject to any proceeding under this Section.

185. (1) No person shall use—

Licensing motor vehicles plying for hire and motor lorries.

(*a*) any motor vehicle for carrying passengers for hire or

(*b*) any motor lorry

on any public street in any municipality, except on a licence obtained from the executive authority.

(2) The municipal council may, with the previous approval of Our Government, make regulations specifying the fees on payment of which, and the other conditions (including the rates of fares for passengers and of freight for goods which may be charged) subject to which, such licences may be granted.

(3) The fees chargeable under sub-section (2) shall not exceed the following maxima, namely:—

(*a*) in the case of a motor vehicle carrying passengers for hire.	twenty-one chuckrams per seat (excluding the seat for the driver and the seat for the conductor) for each quarter or portion thereof;
(*b*) in the case of a motor lorry not plying for hire.	one rupee seven chuckrams for each quarter or portion thereof;
and (*c*) in the case of a motor lorry plying for hire—	
(i) not exceeding 30 cwt. in weight unladen.	twenty-five rupees for each quarter or portion thereof;
(ii) exceeding 30 cwt. but not exceeding 50 cwt. in weight, unladen.	thirty rupees for each quarter or portion thereof;
(iii) exceeding 50 cwt. but not exceeding 70 cwt. in weight, unladen.	forty rupees for each quarter or portion thereof;
(iv) exceeding 70 cwt. in weight, unladen.	fifty rupees for each quarter or portion thereof; and
(v) additional fee chargeable in respect of such lorry if it is used for drawing trailers.	ten rupees for each trailer for each quarter or portion thereof.

(4) Licences may be granted for one or more quarters at a time, at the option of the owner of the vehicle, provided that the period shall in no case extend beyond the expiry of the year to which it relates.

(5) (*a*) Any person aggrieved by an order of the executive authority under sub-section (1) may appeal against such order to the municipal council.

(*b*) The period of limitation for such appeal shall be—

(i) where the appeal is against an order refusing a licence—fifteen days from the date of communication of the order to the applicant; and

(ii) where the appeal is against an order granting a licence—

thirty days from the date of publication of the order on the notice board of the municipal council.

(6) Nothing contained in this Section shall apply to any transport vehicle belonging to Our Government unless Our Government otherwise direct.

Private Streets.

186. If the owner of any land utilises, sells, leases or otherwise disposes of such land or any portion or portions of the same as sites for the construction of buildings, he shall save in such cases as the site or sites may about on an existing public or private street, lay down and make a street or streets or road or roads giving access to the site or sites and connecting with an existing public or private street.

Owner's obligation to make a street when disposing of land as building sites.

187. (1) Any person intending to make or lay out a new private street shall send to the municipal office a written application with plans and sections showing the following particulars, namely,—

Making up new private streets.

(*a*) the intended level, direction and width of the street,

(*b*) the street alignment and the building line, and

(*c*) the arrangements to be made for levelling, paving, metalling, flagging, channelling, sewering, draining, conserving and lighting the street.

(2) The provisions of this Act and of any rules or bye-laws made under this Act as to the level and width of public streets and the height of buildings abutting thereon shall apply also in the case of streets referred to in sub-section (1); and all the particulars referred to in that sub-section shall be subject to approval by the council.

(3) Within sixty days after the receipt of any application under sub-section (1) the council shall either sanction the making of the street on such conditions as it may think fit, or disallow it, or ask for further information with respect to it.

(4) Such sanction may be refused—

(i) if the proposed street would conflict with any arrangements which have been made, or which are in the opinion of the council likely to be made, for carrying out any general scheme for the laying out of street;

(ii) if the proposed street does not conform to the provisions of the Act, rules and bye-laws referred to in sub-section (2); or

(iii) if the proposed street is not designed so as to connect at one end with a street which is already open.

(5) No person shall make or lay out any new private street without or otherwise than in conformity with the orders of the council. If further information is asked for, no steps shall be taken to make or lay out the street until orders have been passed upon receipt of such information;

Provided that the passing of such order shall not in any case be delayed for more than sixty days after the council has received

all the information which it considers necessary to enable it to deal finally with the said application. Any application not disallowed within a period of one hundred and twenty days from the date of receipt in the municipal office shall be deemed to have been sanctioned.

Alteration or demolition of street made in breach of Section 187.

188. (1) If any person makes or lays out any street referred to in Section 187 without or otherwise than in conformity with the orders of the council, the executive authority may, whether or not the offender be prosecuted under this Act, by notice—

(*a*) require the offender to show sufficient cause, by a written statement signed by him and sent to the executive authority on or before such day as may be specified in the notice, why such street should not be altered to the satisfaction of the executive authority, or if such alteration be impracticable, why such street should not be demolished, or

(*b*) require the offender to appear before the executive authority either personally or by a duly authorized agent on such day and at such time and place as may be specified in the notice, and show cause as aforesaid.

(2) If any person on whom such notice is served fails to show sufficient cause to the satisfaction of the executive authority why such street should not be so altered or demolished, the executive authority may pass an order directing the alteration or demolition of such street.

Power of executive authority to order work to be carried out or to carry it out himself in default.

189. (1) If any private street or part thereof is not levelled, paved, metalled, flagged, channelled, drained, conserved or lighted to the satisfaction of the executive authority, he may by notice require the owners or occupiers of buildings or lands fronting or abutting on such street or part thereof to carry out any work, which in his opinion may be necessary and within such time as may be specified in such notice.

(2) If such work is not carried out within the time specified in the notice, the executive authority may, if he thinks fit, execute it and the expenses incurred shall be paid by the owners or occupiers in default according to the frontage of their respective buildings or lands and in such proportion as may be settled by the executive authority.

Right of owners to require street to be declared public.

190. If any street has been levelled, paved, metalled, flagged, channelled, drained, conserved and lighted under the provisions of Section 189 such street shall, on the requisition of a majority of the owners thereof, be declared a public street.

Encroachment on streets.

191. No one shall build any wall or erect any fence or other obstruction, or projection, or make any encroachment in or over any street except as hereinafter provided.

Prohibition against obstructions in or over streets.

192. All streets vested in or to be vested in or maintained by a municipal council shall be open to persons of whatever caste or creed.

Public streets open to all.

193. (1) No door, gate, bar or ground-floor window shall without a licence from the executive authority be hung or placed so as to open outwards upon any street.

Prohibition and regulation of doors, ground-floor windows and bars opening outwards.

(2) The executive authority may by notice require the owner of such door, gate, bar or window to alter it so that no part thereof when open shall project over the street.

194. (1) The executive authority may by notice require the owner or occupier of any premises to remove or alter any projection, encroachment or obstruction other than a door, gate, bar, or ground-floor window situated against or in front of such premises and in or over any street.

Removal of encroachments.

(2) If the owner or occupier of the premises proves that any such projection, encroachment or obstruction has existed for a period sufficient under the law of limitation to give any person a prescriptive title thereto or that it was erected or made with the permission or licence of any municipal authority duly empowered in that behalf, and that the period, if any, for which the permission or licence is valid has not expired, the municipal council shall make reasonable compensation to every person who suffers damage by the removal or alteration of the same.

195. (1) The council may grant a licence, subject to such conditions and restrictions as it may think fit, to the owner or occupier of any premises to put up verandas, balconies, sun-shades, weather frames and the like, to project over a street, or in streets in which the construction of arcades has been sanctioned by the council, to put up an arcade ; or to construct any step or drain covering necessary for access to the premises.

Power to allow certain projections and erections.

(2) The executive authority may grant a licence, subject to such conditions and restrictions as he may think fit, for the

temporary erection of pandals and other structures in a public street vested in the council or in any other public place the control of which is vested in the council.

(3) The council shall have power to lease roadside and street margins vested in it for occupation on such terms and conditions and for such period as the council may fix.

(4) But neither a licence under sub-section (1) nor a lease under sub-section (3) shall be granted if the projection, construction or occupation is likely to be injurious to health or cause public inconvenience or otherwise materially interfere with the use of the road as such.

(5) Our Government may, by notification restrict and place under such control as they may think fit, the exercise by municipal councils in general or by any municipal council in particular, of the powers under sub-sections (1) and (3).

(6) On the expiry of any period for which a licence has been granted under this Section, the executive authority may, without notice, cause any projection or construction put up, under sub-section (1) or (2) to be removed, and the cost of so doing shall be recoverable in the manner provided in Section 365 from the person to whom the licence was granted.

Precautions during repair of streets.

196. (1) The executive authority shall during the construction or repair of any street, or premises vested in the municipal council,

(a) cause the same to be fenced and guarded,

(b) take proper precautions against accident by shoring up and protecting the adjoining buildings, and

(c) cause such bars, chains or posts to be fixed across or in any street in which any such work is under execution as are necessary in order to prevent the passage of vehicles or animals and avert danger.

(2) The executive authority shall cause such drain, street or premises to be sufficiently lighted or guarded during the night while under construction or repair.

(3) The executive authority shall, with all reasonable speed, complete the said work, fill in the ground, and repair the said drain, street or premises and remove the rubbish occasioned thereby.

Prohibition against removal of bars and lights.

197. No person shall without lawful authority remove any bar, chain, post or shoring timber or remove or extinguish any light set up under Section 196.

198. (1) No person shall make a hole or cause any obstruction in any street, unless he previously obtains the permission of the executive authority and complies with such conditions as that officer may impose.

Prohibition against making holes and causing obstruction.

(2) When such permission is granted, such person shall, at his own expense, cause such hole or obstruction to be sufficiently fenced and enclosed until the hole or obstruction is filled up or removed and shall cause such hole or obstruction to be sufficiently lighted during the night.

199. If any person intends to construct or demolish any building or to alter or repair the outward part thereof, and if any street or footway is likely to be obstructed or rendered inconvenient by means of such work, he shall first obtain a licence from the executive authority in that behalf and shall also—

Licence for work on buildings likely to cause obstructions.

(*a*) cause the said building to be fenced and guarded,

(*b*) sufficiently light it during the night, and

(*c*) take proper precautions against accidents during such time as the public safety or convenience requires.

200. If any obstruction is caused in any street by the fall of trees, structures or fences, the owner or occupier of the premises concerned shall within twelve hours of the occurrence of such fall, or within such further period as the executive authority may by notice allow, clear the streets of such obstruction.

Clearing of debris of fallen houses etc., by occupiers.

Naming of streets.

201. (1) The council shall give names to new public streets and may alter the name of any public street.

Naming of public streets.

(2) The executive authority shall cause to be put up or painted in English and in at least one other language of the district on a conspicuous part of some building, wall or place, at or near each end, corner or entrance the name of every public street.

(3) No person shall without lawful authority destroy, pull down, or deface any such name or put up any name different from that put up by order of the executive authority.

Numbers on buildings.

202. (1) The executive authority may cause a number to be affixed to the side or outer door of any building or to some place at the entrance of the premises.

Numbering of buildings.

(2) No person shall without lawful authority destroy, pull down or deface any such number.

(3) When a number has been affixed under sub-section (1), the owner of the building shall be bound to maintain such number and to replace it if removed or defaced; and if he fails to do so, the executive authority may by notice require him to replace it

Chapter X.—Building Regulations.

General powers.

Building rules.

203. (1) Our Government may make rules—

(*a*) for the regulation or restriction of the use of sites for building, and

(*b*) for the regulation or restriction of building.

(2) Without prejudice to the generality of the power conferred by sub-section (1), clause (*a*), rules made under that clause may provide—

(*a*) that no insanitary or dangerous site shall be used for building, and

(*b*) that no site shall be used for the construction of a building intended for public worship, if the construction of the building thereon will wound the religious feelings of any class of persons.

(3) Without prejudice to the generality of the power conferred by sub-section (1), clause (*b*), rules made under that clause may provide for the following matters:

(*a*) information and plans to be submitted together with applications for permission to build;

(*b*) height of buildings, whether absolute or relative to the width of streets;

(*c*) level and width of foundation, level of lowest floor, and stability of structure;

(*d*) number and height of stories composing a building and height of rooms;

(*e*) provision of sufficient open space external or internal and adequate means of ventilation;

(*f*) provision of means of egress in case of fire;

(*g*) provision of secondary means of access for the removal of filth;

(*h*) materials and methods of construction of external and party walls, roofs and floors;

(*i*) position, materials and methods of construction of hearths, smoke, escapes, chimney, staircases, latrines, drains, cess-pools;

(j) paving of yards;

(k) restrictions on the use of inflammable materials in building; and

(l) in the case of wells, the dimensions of the well, the manner of enclosing it, and if the well is intended for drinking purposes the means which shall be used to prevent pollution of the water.

Building site and construction or re-construction of buildings.

204. No piece of land shall be used as a site for the construction of a building and no building shall be constructed or reconstructed otherwise than in accordance with the provisions of this part and of any rules or bye-laws made under this Act relating to the use of building-sites or the construction or reconstruction of buildings:

Provided that Our Government may in respect of all municipalities, or with the consent of the municipal council in respect of any particular municipality or portion thereof, exempt all buildings or any class of buildings from all or any of the provisions of this chapter or the said rules.

Power of council to regulate future construction of certain classes of buildings in particular streets or localities.

205. (1) The council may give public notice of its intention to declare—

(a) that in any streets or portions of streets specified in the notice,

(i) continuous building will be allowed,

(ii) the elevation and construction of the frontage of all buildings thereafter constructed or reconstructed shall, in respect of their architectural features, be such as the council may consider suitable to the locality, or

(b) that in any localities specified in the notice, the construction of only detached buildings will be allowed, or

(c) that in any streets, portions of streets or localities specified in the notice, the construction of shops, warehouses, factories, huts or buildings of a specified architectural character or buildings destined for particular uses will not be allowed, without the special permission of the council.

(2) No objections to any such declaration shall be received after a period of three months from the publication of such notice.

(3) The council shall consider all objections received within the said period and may then confirm the declaration, and before doing so, may modify it but not so as to extend its effect.

(4) The executive authority shall publish any declaration so confirmed and it shall take effect from the date of publication.

(5) No person shall, after the date of publication of such declaration, construct or re-construct any building in contravention of any such declaration.

Buildings at corner of streets.

206. (1) The council may require any building intended to be erected at the corner of two streets to be rounded off or splayed off to such height and to such extent otherwise as it may determine, and may acquire such portion of the site at the corner as it may consider necessary for public convenience or amenity.

(2) For any land so acquired the municipal council shall pay compensation.

(3) In determining such compensation allowance shall be made for any benefit accruing to the same premises from the improvement of the streets.

Prohibition against use of inflammable materials for buildings without permission.

207. No external roof, veranda, pandal or wall of a building shall be constructed or re-constructed of grass, leaves, mats or other inflammable materials except with the permission of the executive authority.

Prohibition against constructing doors, ground-floor windows and bars so as to open outwards.

208. No door, gate, bar or ground, floor window which opens on any public street shall be constructed or re-constructed so as to open outwards except with the licence of the executive authority under Section 193.

Buildings other than huts.

Application to construct or re-construct building.

209. (1) If any person intends to construct or reconstruct a building other than a hut he shall send to the executive authority—

(*a*) an application in writing for the approval of the site, together with a site plan of the land, and

(*b*) an application in writing for permission to execute the work together with a ground-plan, elevations and sections of the building, and specification of the work.

Explanation:—'Building' in this sub-section shall include a wall or fence of whatever height bounding or abutting on any public street.

(2) Every document furnished under sub-section (1) shall contain such particulars and be prepared in such manner as may be required under rules or bye-laws.

Necessity for prior approval of site.

210. The executive authority shall not grant permission to construct or reconstruct a building unless and until he has approved of the site on an application made under Section 209.

211. The construction or reconstruction of a building shall not be begun unless and until the executive authority has granted permission for the execution of the work.

Prohibition against commencement of work without permission.

212. Within thirty days after the receipt of any application made under Section 209 for approval of a site or of any information or further information required under rules or bye-laws, the executive authority shall by written order either approve the site or refuse on one or more of the grounds mentioned in Section 215 to approve the site.

Period within which executive authority is to signify approval or disapproval.

213. Within thirty days after the receipt of any application made under Section 209 for permission to execute any work or of any information or of documents or further information or documents required under rules or bye-laws, the executive authority shall by written order either grant such permission or refuse on one or more of the grounds mentioned in Section 215 to grant it,

Period within which executive authority is to grant or refuse to grant permission to execute work.

Provided that the said period of thirty days shall not begin to run until the site has been approved under Section 212.

214. (1) If, within the period prescribed by Section 212 or Section 213, as the case may be, the executive authority has neither given nor refused his approval of a building site, or his permission to execute any work, as the case may be, the council shall be bound, on the written request of the applicant, to determine by written order whether such approval or permission should be given or not.

Reference to council if executive authority delays grant or refusal of approval or permission.

(2) If the council does not, within one month from the receipt of such written request, determine whether such approval or permission should be given or not, such approval or permission shall be deemed to have been given; and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or any rules or bye-laws made under this Act.

215. The only grounds on which approval of the site for the construction or reconstruction of a building or permission to construct or reconstruct a building may be refused are the following, namely:—

Grounds on which approval of site for, or licence to construct or reconstruct building may be refused.

(i) that the work or use of the site for the work or any of the particulars comprised in the site plan, ground plan, elevation, sections or specification would contravene some specified provision of any law, or some specified order, rule, declaration or bye-law made under any law;

(ii) that the application for such permission does not contain the particulars or is not prepared in the manner required under rules or bye-laws ;

(iii) that any of the documents referred to in Section 209 have not been signed as required under rules or bye-laws ;

(iv) that any information or documents required by the executive authority under rules or bye-laws has or have not been duly furnished ;

(v) the streets or roads have not been made as required by Section 186; or

(vi) that the proposed building would be an encroachment upon Government or municipal land.

Whenever the executive authority or the council refuses to approve a building-site for a building or to grant permission to construct or reconstruct a building, the reasons for such refusal shall be specially stated in the order or resolution.

216. If the construction or reconstruction of any building is not completed within the period specified the permission shall lapse and a fresh application shall be made before the work is continued.

Lapse of permission.

217. (1) If the executive authority finds that the work—

Power of executive authority to require alteration of works.

(*a*) is otherwise than in accordance with the plans or specifications which have been approved, or

(*b*) contravenes any of the provisions of this Act or any bye-law, rule, order or declaration made thereunder, he may by notice require the owner of the building within a period stated either—

(i) to make such alterations as may be specified in the said notice with the object of bringing the work into conformity with the said plans or provisions, or

(ii) to show cause why such alterations should not be made.

(2) If the owner does not show cause as aforesaid, he shall be bound to make the alterations specified in such notice.

(3) If the owner shows cause as aforesaid, the executive authority shall by an order cancel the notice issued under sub-section (1), or confirm the same subject to such modifications as he may think fit.

218. Notwithstanding anything contained in any of the preceding Sections the executive authority may at any time stop the construction or reconstruction of any building if in his opinion the work in progress endangers human life.

Stoppage of work endangering human life.

Wells.

219. The provisions of Section 209, Section 210, Section 211, Section 216, Section 217 and Section 218 shall, so far as may be, apply to a well.

Application of certain Sections to wells.

Huts.

220. (1) Every person who intends to construct or reconstruct a hut shall send to the executive authority—

Application to construct or reconstruct huts.

(*a*) an application for permission to execute the work, and

(*b*) a site-plan of the land.

(2) Every such application and plan shall contain the particulars and be prepared in the manner required by rule or bye-law.

221. The construction or reconstruction of a hut shall not be begun unless and until the executive authority has granted permission for the execution of the work on an application sent to him under Section 220.

Prohibition against commencement of work without permission.

222. Within fourteen days after the receipt of any application made under Section 220 for permission to construct or reconstruct a hut or of any information or plan or further information or fresh plan required under rules or bye-laws, the executive authority shall by written order either grant such permission or refuse on one or more of the grounds mentioned in Section 224 to grant it.

Period within which executive authority is to grant or refuse to grant permission to execute the work.

223. (1) If, within the period prescribed by Section 222, the executive authority has neither granted nor refused to grant permission to construct or reconstruct a hut, the council shall be bound, on the written request of the applicant, to determine by written order whether such permission should be granted or not.

Reference to council if executive authority delays passing orders.

(2) If the council does not, within thirty days from the receipt of such written request, determine whether such permission should be granted or not, such permission shall be deemed to have been granted; and the applicant may proceed to execute the work but not so as to contravene any of the provisions of this Act or any rules or bye-laws made under this Act.

224. (1) The only grounds on which permission to construct or reconstruct a hut may be refused are the following, namely :—

Grounds on which permission to construct or reconstruct hut may be refused.

(i) that the work or use of the site for the work would contravene some specified provision of any law or some specified order, rule, bye-law or declaration made under any law ;

(ii) that the application for permission does not contain the particulars or is not prepared in the manner required under rules or bye-laws ;

(iii) that any information or plan required by the executive authority under rules or bye laws has not been duly furnished ;

(iv) that streets or roads have not been made as required by Section 186 ; or

(v) that the proposed building would be an encroachment upon Government or municipal land.

(2) Whenever the executive authority or the council refuses to grant permission to construct or reconstruct a hut the reasons for such refusal shall be specifically stated in the order or resolution.

Lapse of permission.

225. If the construction or reconstruction of any hut is not completed within the period specified the permission shall lapse and a fresh application shall be made before the work is continued.

External walls, alterations and additions.

Maintenance of external walls in repair.

226. The owner or occupier of any building adjoining a public street shall keep the external part thereof in proper repair with lime-plaster or other material to the satisfaction of the executive authority.

Application of provision to alterations and additions.

227. (1) The provisions of this chapter and of any rules or bye-laws made under this Act relating to construction and reconstruction of buildings shall also be applicable to any alteration thereof or addition thereto :

Provided that works of necessary repair which do not affect the position or dimension of a building or any room therein shall not be deemed an alteration or addition for the purposes of this Section.

(2) If any question arises as to whether any addition or alteration is a necessary repair not affecting the position or dimension of a building or room such question shall be referred to the council whose decision shall be final.

Powers of the executive authority.

Demolition or alteration of building work unlawfully commenced, carried on or completed.

228. (1) If the executive authority is satisfied

(i) that the construction or reconstruction of any building or well—

(a) has been commenced without obtaining the permission of the executive authority or (where an appeal or reference has been made to the council) in contravention of any order passed by the council ; or

(*b*) is being carried on, or has been completed otherwise than in accordance with the plans or particulars on which such permission or order was based, or

(*c*) is being carried on, or has been completed in breach of any of the provisions of this Act or of any rule or bye-law made under this Act or of any direction or requisition lawfully given or made under this Act or such rules or bye-laws, or

(ii) that any alterations required by any notice issued under Section 217 have not been duly made, or

(iii) that any alteration of or addition to any building or any other work made or done for any purpose into or upon any building has been commenced or is being carried on or has been completed in breach of Section 227, he may make a provisional order requiring the owner or the builder to demolish the work done, or so much of it as, in the opinion of the executive authority has been unlawfully executed or to make such alterations as may in the opinion of the executive authority be necessary to bring the work into conformity with the Act, bye-laws, rules, direction or requisition as aforesaid, or with the plans and particulars on which such permission or order was based ; and may also direct that until the said order is complied with the owner or builder shall refrain from proceeding with the building or well.

(2) The executive authority shall serve a copy of the provisional order made under sub-section (1) on the owner of the building or well together with a notice requiring him to show cause within a reasonable time to be named in such notice why the order should not be confirmed.

(3) if the owner fails to show cause to the satisfaction of the executive authority, the executive authority may confirm the order with any modification he may think fit to make, and such order shall then be binding on the owner.

Exemptions.

Exemptions.

229. (1) Any building constructed and used, or intended to be constructed and used, exclusively for the purpose of a plant-house, meter-house, summer house (not being a dwelling house), poultry-house or aviary, shall be exempted from the provisions of this chapter other than Section 208 provided the building be wholly detached from, and situated at a distance of at least ten feet from, the nearest adjacent building.

(2) The executive authority may grant permission at his discretion on such terms as he may decide in each case to erect for a specified period temporary huts or sheds for stabling, for watching crops, for storing tools or materials, or for other similar purposes. On expiry of the period specified, the executive authority may by notice require the owner of such hut or shed to demolish it.

Chapter XI.—Nuisances.

Dangerous structures, trees and places.

Precautions in case of dangerous structures.

230. (1) If any structure be deemed by the executive authority to be in a ruinous state and dangerous to the passers-by or to the occupiers of neighbouring structures the executive authority may by notice require the owner or occupier to fence off, take down, secure or repair such structure so as to prevent any danger therefrom.

(2) If immediate action is necessary the executive authority shall himself before giving such notice or before the period of such notice expires, fence off, take down, secure or repair such structure or fence off a part of any street or take such temporary measures as he thinks fit to prevent danger and the cost of doing so shall be recoverable from the owner or occupier in the manner provided in Section 365.

(3) If in the opinion of the executive authority the said structure is imminently dangerous to the inmates thereof, the executive authority shall order the immediate evacuation thereof and any person disobeying may be removed by any police officer.

Precautions in case of dangerous trees.

231. (1) If any tree or any branch of a tree or the fruit of any tree be deemed by the executive authority to be likely to fall and thereby endanger any person or any structure the executive authority may by notice require the owner of the said tree to secure, lop or cut down the said tree so as to prevent any danger therefrom.

(2) If immediate action is necessary the executive authority shall himself before giving such notice or before the period of such notice expires, secure, lop or cut down the said tree or remove the fruit thereof or fence off a part of any street or take such other temporary measures as he thinks fit to prevent danger, and the cost of so doing shall be recoverable from the owner of the tree in the manner provided in Section 365.

Precautions in case of dangerous tanks, wells, holes, etc.

232. (1) If any tank, pond, well, hole, stream, dam, bank or other place appears to the executive authority to be for want of sufficient repair, protection or enclosure dangerous to the passers-by or to persons living in the neighbourhood, the executive authority may by notice require the owner to fill in, remove, repair, protect or enclose the same so as to prevent any danger therefrom.

(2) If immediate action is necessary he shall, before giving such notice or before the period of notice expires, himself take such temporary measures as he thinks fit to prevent danger and the cost of doing so shall be recoverable from the owner in the manner provided in Section 365.

233. If in the opinion of the executive authority the working of any quarry or the removal of stone, earth or other material from any place is dangerous to persons residing in or having legal access to the neighbourhood thereof or creates or is likely to create a nuisance the executive authority may require the owner or person having control of the said quarry or place to discontinue working the same or to discontinue removing stone, earth or other material from such place or to take such order with such quarry or place as he shall deem necessary for the purpose of preventing danger or of abating the nuisance arising or likely to arise therefrom.

Power to stop dangerous quarrying.

234. (1) The executive authority may by notice require the owner of any structure, booth or tent partly or entirely composed of, or having any external roof, veranda, pandal or wall partly or entirely composed of cloth, grass, leaves, mats or other highly inflammable materials to remove or alter such tent, booth, structure, roof, veranda, pandal or wall, or may grant him permission to retain the same on such conditions as the executive authority may think necessary to prevent danger from fire.

Precautions against fire.

(2) The executive authority may by notice require any person using any place for the storage for private use of timber, firewood, or other combustible things to take special steps to guard against danger from fire.

(3) Where the executive authority is of opinion that the means of egress from any building are insufficient to allow of safe exit in the event of fire, he may with the sanction of the council by notice require the owner or occupier of the building to alter or reconstruct any staircase in such manner or to provide such additional or emergency staircases as he may direct; and when any building, booth or tent is used for purposes of public entertainment he may require, subject to such sanction as aforesaid, that it shall be provided with an adequate number of clearly indicated exits so placed and maintained as readily to afford the audience ample means of safe egress, that the seating be so arranged as not to interfere with free access to the exits and that gangways, passages and staircases leading to the exits shall during the presence of the public be kept clear of obstructions.

Control over waters, etc.

235. (1) No new well, tank, pond, cistern, fountain or the like shall be dug or constructed without the permission of the executive authority.

Prohibition of construction of wells, tanks, etc. without the permission of the executive authority.

(2) The executive authority may grant permission subject to such conditions as he may deem necessary, or may, for reasons to be recorded by him, refuse it.

(3) If any such work is begun or completed without such permission, the executive authority may either—

(*a*) by notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the executive authority shall direct, or

(*b*) grant permission to retain such work, but such permission shall not exempt such owner from proceedings for contravening the provisions of sub section (1).

236. (1) If in the opinion of executive authority—

Filling in of pools etc., which are a nuisance.

(*a*) any pool, ditch, tank, well, pond, bog, swamp, quarry-hole, drain, cesspool, pit, water-course or any collection of water, or

(*b*) any land on which water may at any time accumulate is or is likely to become a breeding place of mosquitoes or in any other respect a nuisance, the executive authority may by notice require the owner or person having control thereof to fill up, cover over, weed and stock with larvicidal fish, petrolize, drain or drain off the same in such manner and with such materials as the executive authority shall direct or to take such order with the same for removing or abating the nuisance as the executive authority shall direct.

(2) If a person on whom a requisition is made under sub-section (1) to fill up, cover over, or drain off a well, delivers to the executive authority within the time specified for compliance therewith written objections to such requisition the executive authority shall report such objections to the council, and shall make further inquiry into the case, and he shall not institute any prosecution for failure to comply with such requisition except with the approval of the council, but the executive authority may nevertheless, if he deems the execution of the work called for by such requisition to be of urgent importance, proceed in accordance with Section 360 and pending the council's disposal of the question whether the said well shall be permanently filled up, covered over or otherwise dealt with, may cause such well to be securely covered over so as to prevent the ingress of mosquitoes, and in every such case the executive authority shall determine with the approval of the council whether the expenses of any work already done as aforesaid shall be paid by such owner or by the chairman out of the municipal fund or shall be shared and, if so, in what proportions.

237. The council on the report of the Director of Public Health, the health officer or the local medical officer appointed by Our Government, that the cultivation of any description of crop or the use of any kind of manure or the irrigation of any land in any place within the limits of the municipality is injurious to the

Regulation or prohibition of certain kinds of cultivation.

public health, may, with the previous sanction of our Government, by public notice regulate or prohibit the cultivation, use of manure, or irrigation so reported to be injurious:

Provided that when such cultivation or irrigation has been practised during the five years preceding the date of such public notice with such continuity as the ordinary course of husbandry admits of, compensation shall be paid from the municipal fund to all persons interested for any damage caused to them by absolute prohibition.

Cleansing of insanitary private tank or well used for drinking.

238. (1) The executive authority may by notice require the owner of or person having control over any private water course, spring tank, well or other place, the water of which is used for drinking, bathing or washing clothes to keep the same in good repair and to cleanse it of silt, refuse or vegetation and to protect it from pollution by surface drainage in such manner as the executive authority may think fit.

(2) If the water of any place which is used for drinking, bathing or washing clothes, as the case may be, is proved to the satisfaction of the executive authority to be unfit for the purpose, the executive authority may by notice require the owner or person having control thereof to—

(*a*) refrain from using or permitting the use of such water, or

(*b*) close or fill up such place or enclose it with a substantial wall or fence.

Duty of council in respect of public well or receptacle of stagnant water.

239. The municipal council shall maintain in a clean condition all wells, tanks and reservoirs which are not private property, and may fill them up or drain them when it appears necessary to do so.

Public wells, etc. open to all.

240. All such wells, tanks and reservoirs when maintained by the municipal council shall be open to use and enjoyment by persons of whatever caste or creed.

Prohibition against or Regulation of washing animals or clothes or fishing or drinking in public water-courses, tanks, etc.

241. The council may in the interests of the public health, regulate or prohibit the washing of animals, clothes or other things, or fishing in any public spring, tank, well, public watercourse or part thereof within the municipality and may set apart any such place for drinking or for bathing or for washing clothes or animals, respectively, or for any other specified purpose.

242. (1) The council may construct or provide and maintain public wash-houses or places for the washing of clothes, and may require the payment of such rents and fees for the use of any such wash-house or place as it may determine.

Provision of public wash house.

(2) The council may farm out the collection of such rents and fees for any period not exceeding three years at a time on such terms and conditions as it may think fit.

(3) If a sufficient number of public wash-houses or places be not maintained under sub-section (1), the council may without making any charge therefor appoint suitable places for the exercise by washer-men of their calling.

243. (1) The council may by public notice prohibit the washing of clothes by washermen in the exercise of their calling, either within the municipality or outside the municipality within three miles of the boundary thereof, except at—

Prohibition against washing by washer-men at unauthorised places.

(*a*) public wash-houses or places maintained or provided under Section 242, or

(*b*) such other places as it may appoint for the purpose.

(2) When any such prohibition has been made no person who is by calling a washerman shall, in contravention of such prohibition, wash clothes, except for himself or for personal and family service or for hire on and within the premises of the hirer at any place within or without municipal limits other than a public wash-house or a place maintained or appointed under this Act :

Provided that this Section shall apply only to clothes washed within or to be brought within the municipality.

244. It shall not be lawful for any person to—

Prohibition against defiling water of tanks etc., whether public or private.

(*a*) bathe in or in any manner defile the water in any place set apart by the council or by the owner thereof for drinking purposes ; or

(*b*) deposit any offensive or deleterious matter in the dry bed of any place set apart as aforesaid for drinking purposes ; or

(*c*) wash clothes in any place set apart as aforesaid for drinking or bathing ; or

(*d*) wash any animal or any cooking utensils or wool, skins or other foul or offensive substance or deposit any offensive or deleterious matter in any place set apart as aforesaid for bathing or washing clothes ; or

(*e*) cause or suffer to drain into or upon any place set apart as aforesaid for drinking, bathing or washing clothes, or cause or suffer anything to be brought thereinto or do anything whereby the water may be fouled or corrupted.

Control over abandoned lands, untrimmed hedges, etc.

245. If any building or land, by reason of abandonment, disputed ownership or other cause remains untenanted, and thereby becomes a resort of idle and disorderly persons or in the opinion of the executive authority becomes a nuisance, the executive authority may after due inquiry by notice require the owner or person claiming to be the owner to secure, enclose, clear or cleanse the same.

Untenanted buildings or lands.

246. The executive authority may by notice require the owner or occupier of any building or land which appears to him to be in a filthy or unwholesome state, or overgrown with any thick or noxious vegetation, trees or undergrowth injurious to health or offensive to the neighbourhood, to clear, cleanse or otherwise put the land in proper state or to clear away and remove such vegetation, trees or undergrowth within twenty-four hours or such longer period and in such manner as may be specified in the notice.

Removal of filth or noxious vegetation.

247. The executive authority may by notice require the owner or occupier of any building or land near the public street to—

Fencing of buildings or lands and pruning of hedges and trees.

(*a*) fence the same to the satisfaction of the executive authority; or

(*b*) trim or prune any hedges bordering on the said street so that they may not exceed such height from the level of the adjoining roadway as the executive authority may determine; or

(*c*) cut and trim any hedges or trees overhanging the said street and obstructing it or the view of traffic or causing it damage; or

(*d*) lower an enclosing wall or fence which by reason of its height and situation obstructs the view of the traffic so as to cause danger.

Control over insanitary buildings.

248. The executive authority if it appears to him necessary for sanitary purposes so to do, may by notice require the owner or occupier of any building to limewash or otherwise cleanse the building inside and outside in the manner and within a period to be specified in the notice.

Limewashing and cleansing of buildings.

249. (1) Whenever the executive authority considers—

Further powers with reference to insanitary buildings.

(*a*) that any building or portion thereof is, by reason of its having no plinth, or having a plinth of insufficient height, or by reason of the want of proper drainage or ventilation or by reason of impracticability of cleansing, attended with danger of disease to the occupiers thereof or to the inhabitants of the neighbourhood, or is, for any reason, likely to endanger the public health or safety, or

(*b*) that a block or group of buildings is, for any of the said reasons, or by reason of the manner in which the buildings are crowded together, attended with such risk as aforesaid,

(i) he may by notice require the owners or occupiers of such buildings or portions of buildings or at his option, the owners of the land occupied by such buildings, or portions of buildings to execute such works or to take such measures as he may deem necessary for the prevention of such danger.

(2) No person shall be entitled to compensation for damages sustained by reason of any action taken under or in pursuance of this Section save when a building is demolished in pursuance of an order made hereunder, or so far demolished as to require reconstruction, in which cases the municipal council shall make compensation to the owner thereof.

(3) When any building is entirely demolished under this Section and the demolition thereof adds to the value of other buildings in the immediate vicinity, the owners of such other buildings shall be bound to contribute towards the compensation payable to the owner of the first named building in proportion to the increased value acquired by their own property.

(4) When any building is so far demolished under this Section as to require reconstruction, allowance shall be made in determining the compensation for the benefit accruing to the premises from the improvement thereof.

250. (1) If any building or portion thereof intended for or used as a dwelling place appears to the executive authority to be unfit for human habitation, he may apply to the council to prohibit the further use of such structure for such purpose; and the council may, after giving the owner and occupiers of the structure a reasonable opportunity of showing cause why such order should not be made, make a prohibitory order as aforesaid.

Buildings unfit for human habitation.

(2) When any such prohibitory order has been made, the executive authority shall communicate the purport thereof to the owner and occupiers of the structure and on expiry of such period as is specified in the notice, not being less than thirty days after the service of the notice, no owner or occupier of such structure shall use or suffer it to be used for human habitation until the executive authority certifies in writing that the causes rendering it unfit for human habitation have been removed to his satisfaction, or the council withdraws the prohibition.

(3) When such prohibitory order has remained in operation for three months the executive authority shall report the case to the council, which shall thereupon consider whether the structure should not be demolished. The council shall give the owner not less than thirty days' notice of the time and place at which the question will be considered and the owner shall be entitled to be heard when the question is taken into consideration.

(4) If upon such consideration the council is of opinion that the structure has not been rendered fit for human habitation and that steps are not being taken with due diligence to render it so fit and that the continuance of the structure is a nuisance or dangerous or injurious to the health of the public or to the inhabitants of the neighbourhood, it shall record a decision to that effect with the grounds of the decision, and the executive authority shall in pursuance of the said decision by notice require the owner to demolish the structure.

(5) If the owner undertakes to execute forthwith the works necessary to render the structure fit for human habitation and the executive authority considers that it can be so made fit, the executive authority may postpone the execution of the decision of the council for such time not exceeding six months as he thinks sufficient for the purpose of giving the owner an opportunity of executing the necessary works.

Abatement of overcrowding in dwelling-house or dwelling-place.

251. (1) If it appears to the executive authority that any dwelling-house or other building which is used as a dwelling-place, or any room in such dwelling-house or building, is so overcrowded as to endanger the health of the inmates thereof, he may apply to a magistrate to abate such overcrowding; and the magistrate after such inquiry as he thinks fit to make, may, by written order, require the owner of the building, or room, within a reasonable time not exceeding four weeks to be specified in the said order, to abate such overcrowding by reducing the number of lodgers, tenants or other inmates of the building or room, or may pass such other order as he may deem just and proper.

(2) The council may, by written order, declare what amount of superficial and cubic space shall be deemed for the purposes of sub-section (1) to be necessary for each occupant of a building or room.

(3) If any building or room referred to in sub-section (1) has been sublet, the land-lord of the lodgers, tenants, or other actual inmates of the same shall, for the purposes of this Section, be deemed to be the owner of the building or room.

(4) It shall be incumbent on every tenant, lodger or other inmate of a building or room to vacate on being required by the owner so to do, in pursuance of any requisition made under sub-section (1).

Control over certain animals.

Prohibition against feeding certain animals on filth.

252. No person shall feed or permit any animal, which is kept for dairy purpose or may be used for food, to be fed on filth.

Prohibition against keeping animal so as to be a nuisance or dangerous.

253. No person shall keep any animal on his premises so as to be a nuisance or so as to be dangerous.

Power to destroy stray pigs and dogs.

254. (1) The council may and, if so directed by the District Magistrate, shall give public notice that unlicensed pigs or dogs straying within specified limits will be destroyed.

(2) When such notice has been given any person may destory in any manner not inconsistent with the terms of the notice any unlicensed pig or dog (as the case may be) found straying within such limits.

General.

Power of executive authority to use or sell materials of dangerous structure taken down, etc., and procedure when there is no owner or occupier.

255. (1) When the executive authority takes down any structure or part thereof or cuts down any tree or hedge or shrub or part thereof or removes any fruit in virtue of his powers under this chapter the executive authority may sell the materials or things taken down, cut down or removed, and apply the proceeds in or towards payment of the expenses incurred.

(2) If after reasonable inquiry it appears to the executive authority that there is no owner or occupier to whom notice can be given under any Section in this chapter he may himself take such order with the property mentioned in such Section as may appear to him to be necessary and may recover the expense incurred by the sale of such property (not being land) or of any portion thereof,

256. No person shall be entitled save as provided in Sections 236, 237 and 249 to compensation for any damages sustained by reason of any action taken by the municipal authorities in pursuance of their powers under this chapter.

Limitation of compensation.

Chapter XII.—Licences and Fees.

General provision as to licences.

257. Nothing in this chapter shall be construed as requiring Our Government to take out a licence in respect of any place in the occupation or under the control of or any property belonging to Our Government.

Exemption of Government from taking out licence.

Keeping of animals.

258. (1) The owner or occupier of any stable, veterinary infirmary, stand, shed, yard, or other place in which quadrupeds are kept or taken in for purposes of profit, shall, in the first month of every year, or in the case of a place to be newly opened, within one month before the opening of such place apply to the executive authority for a licence for the use of the same for any such purpose of profit.

Licences for places in which animals are kept.

(2) The executive authority may, by an order and under such restrictions and regulations as he thinks fit, grant or refuse to grant such licence.

(3) No person shall without or otherwise than in conformity with a licence use any place for such a purpose.

259. (1) All stables, cattle sheds and cow-houses shall be under the survey and control of the executive authority as regards their site, construction, materials and dimensions.

General powers of control over stables, cattle sheds and cow-house.

(2) The executive authority may by notice require that any stable, cattle shed or cow house be altered, paved, drained, repaired, disinfected or kept in such a state as to admit of its being sufficiently cleaned or be supplied with water, or be connected with a sewer or be demolished.

(3) Every such notice shall be addressed to the owner of the building or land to which the stable, cattle shed or cow house belongs, or for the use of the occupants of which the same was constructed or is continued.

(4) The expense of executing any work in pursuance of any such notice shall be borne by the said owner.

260. If any stable, cattle shed or cow-house is not constructed or maintained in the manner required by or under this Act, the executive authority may by notice direct that the same shall no longer be used as a stable, cattle shed or cowhouse. Every such notice shall state the grounds on which it proceeds.

Power to direct discontinuance of use of buildings as stable, cattle shed or cow-house.

Industries and Factories.

261. (1) The council may publish a notification in Our Government Gazette and by beat of drum that no place within municipal limits or at a distance within three miles of such limits shall be used for any one or more of the purposes specified in Schedule III without the licence of the executive authority and except in accordance with the conditions specified therein :

Purposes for which places may not be used without licence.

Provided that no such notification shall take effect

(*a*) until sixty days from the date of publication, and

(*b*) except with the previous sanction of Our Government in any area out side the municipal limits.

(2) The owner or occupier of every such place shall within thirty days of the publication of such notification apply to the executive authority for a licence for the use of such place for such purpose.

(3) The executive authority may by an order and under such restrictions and regulations as he thinks fit, grant or refuse to grant such licence.

(4) Every such licence shall expire at the end of the year unless for special reasons the executive authority considers it should expire at an earlier date ; when it shall expire at such earlier date as may be specified therein.

(5) Applications for renewal of such licences shall be made not less than thirty days before the end of every year and applications for licences for places to be newly opened shall be made not less than thirty days before they are opened.

262. (1) Every person intending—

Application to be made for construction, establishment or installation of factory, workshop or work-place in which steam or other power is to be employed.

(*a*) to construct or establish any factory, workshop or work place in which it is proposed to employ steampower, water-power or other mechanical power or electrical power, or

(*b*) to install in any premises any machinery or manufacturing plant driven by steam, water or other power as aforesaid, shall before beginning such construction, establishment or installation, make an application in writing to the municipal council for permission to undertake the intended work.

(2) The application shall be accompanied by—

(i) a plan of the factory, workshop, work-place or premises prepared in such manner as may be prescribed by rules made in this behalf by Our Government, and

(ii) such particulars as to the power, machinery, plant or premises as the municipal council may require by bye-laws made in this behalf.

(3) The municipal council shall, as soon as may be after the receipt of the application:

(*a*) grant the permission applied for either absolutely or subject to such conditions as it thinks fit to impose, or

(*b*) refuse permission, if it is of opinion that such construction, establishment or installation is objectionable by reason of the density of the population in the neighbourhood or that it is likely to cause a nuisance.

(4) Before granting permission under sub-section (3), the municipal council—

(*a*) shall obtain the approval of the inspector of factories appointed under the Travancore Factories Act having jurisdiction in the area of the municipality, or if there is more than one such inspector, of the inspector designated by Our Government in this behalf by general or special order, as regards the plan of the factory, workshop, work place or premises with reference to—

(i) the adequacy of the provision for ventilation and light,

(ii) the sufficiency of the height and dimensions of the rooms and doors,

(iii) the suitability of the exits to be used in case of fire, and

(iv) such other matters as may be prescribed by rules made by Our Government; and

(*b*) shall consult and have due regard to the opinion of the municipal health officer where the municipal council employs such an officer and of the district medical officer in other cases, as regards the suitability of the site of the factory, workshop, work place or premises for the purpose specified in the application.

(5) The grant of permission under this Section shall not be deemed to dispense with the necessity for compliance with the provisions of Sections 209 and 211 or Sections 220 and 221, as the case may be.

263. (1) If, in any factory, workshop or work place in which steampower, water-power or other mechanical power or electrical power is used, nuisance is in the opinion of the municipal council caused by reason of particular kind of fuel employed or by reason of the noise or vibration created, the municipal council may issue such directions as it thinks fit for the abatement of the nuisance within a reasonable time to be specified for the purpose.

Council may issue directions for abatement of nuisance caused by steam or other power.

(2) If there has been wilful default in carrying out such directions or if abatement is found impracticable, the municipal council may

(*a*) prohibit the use of the particular kind of fuel employed or

(*b*) restrict the noise or vibration by prohibiting the working of the factory, workshop or work place between the hours of 9-30 P. M. and 5-30 A. M.

264. Our Government may, either generally or in any particular case, make such order or give such directions as they may deem fit in respect of any action taken or omitted to be taken under Section 262 or Section 263.

Power of our Government to pass orders to give directions to municipal councils.

265. (1) The executive authority or any person authorized by him in this behalf may enter any factory, or workshop or work place—

The executive authority may enter any factory workshop or work place.

(*a*) at any time between sunrise and sunset;

(*b*) at any time when any industry is being carried on; and

(*c*) at any time by day or by night, if he has reason to believe, that any offence is being committed under Section 262 or Section 263.

(2) No claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under this Section or by the use of any force necessary for the purpose of effecting an entrance under this Section.

Slaughtering.

266. (1) The municipal council shall provide a sufficient number of places for use as municipal slaughter-houses and may charge rents and fees for their use.

Provision of municipal slaughter-houses.

(2) The council may farm out the collection of such rents and fees for any period not exceeding three years at a time and on such terms and conditions as it may think fit.

(3) Municipal slaughter-houses may be situated within or, with the sanction of Our Government, without the municipality.

267. (1) The owner of any place within municipal limits or at a distance within three miles of such limits which is used as a slaughter-house for the slaughtering of animals or for the skinning or cutting up of any carcasses, shall in the first month of every year or, in the case of a place to be newly opened, one month before the opening of the same, apply to the executive authority for a licence :

Licence for slaughter houses.

Provided that the sub-section shall not take effect in any area outside the municipal limits except with the previous sanction of Our Government.

(2) The executive authority may, by an order and subject to such restrictions and regulations as to supervision and inspection as he thinks fit, grant or refuse to grant such licence.

268 The executive authority may allow any animal to be slaughtered in such places as he thinks fit on occasions of festival and ceremonies or as a special measure.

Slaughter of animals during festivals and ceremonies.

269. No person shall slaughter within the municipality, except in a public or licensed slaughterhouse, any cattle, horse, sheep, goat or pig for sale as food or skin or cut up any carcass without or otherwise than in conformity with a licence from the executive authority or dry or permit to be dried any skin in such a manner as to cause a nuisance:

Slaughter of animals for sale as food.

Provided that the executive authority may authorise any person to slaughter, without licence and without the payment of any fee, any animal for the purpose of a religious ceremony.

The milk trade.

270. (1) No person shall without or otherwise than in conformity with a licence from the executive authority—

Regulation of milk trade.

(*a*) carry on within the municipality the trade or business of a dealer in or importer or seller or hawker of milk or dairy produce;

(*b*) use any place in the municipality for the sale of milk or dairy produce :

Provided that no such licence shall be given to any person who is suffering from a dangerous disease.

(2) Such licence may be refused or may be granted on such conditions as the executive authority may deem necessary which may extend to the construction, ventilation, conservancy, supervision and inspection of the premises, whether within or without municipal limits, where the animals from which the milk supply is derived are kept.

Markets, butchers, fishmongers, hawkers.

271. All markets which are acquired, constructed, repaired or maintained out of the municipal fund shall be deemed to be public markets; and such markets shall be opened to persons of whatever caste or creed.

Public market.

272. (1) The council may provide places for use as public markets.

Powers in respect of public markets.

(2) The council may in any public market levy any one or more of the following fees at such rates and may place the collection of such fees under the management of such persons as may appear to it proper or may farm out such fees on such terms and subject to such conditions as it may deem fit:—

(*a*) fees for the use of, or for the right to expose goods for sale in, such markets;

(*b*) fees for the use of shops, stalls, pens or stands in such markets;

(*c*) fees on vehicles or pack-animals carrying, or on persons bringing, goods for sale in such markets;

(*d*) fees on animals brought for sale into, or sold in, such markets; and

(*e*) licence fees on brokers, commission agents, weighmen and measurers practising their calling in such markets.

(3) The council may with the sanction of Our Government, close any public market or part thereof.

273. (1) No person shall, without the permission of the executive authority or if the fees have been farmed out, of the farmer, sell or expose for sale any animal or article within any public market.

Control of executive authority over public markets.

(2) The executive authority may expel from any public market any person who or whose servant has been convicted of disobeying any bye-laws at the time in force in such market, and may prevent such person from further carrying on by himself or his servants or agents any trade or business in such market, or occupying any shop, stall or other place therein and may determine any lease or tenure which such person may possess in any such shop, stall or place.

274. (1) No person shall open a new private market or continue to keep open a private market unless he obtains from the council a licence to do so.

Licence for private market.

(2) Application for such licence shall be made by the owner of

the place in respect of which the licence is sought not less than six weeks before such place is opened as a market or before the commencement of the year for which the licence is sought, as the case may be.

(3) The council shall, as regards private markets already lawfully established and may, at its discretion, as regards new private markets, grant the licence applied for subject to such regulations as to supervision and inspection and to such conditions as to sanitation, drainage, water-supply, width of paths and ways, weights and measures to be used, and rents and fees to be charged in such market as the council may think proper; or the council may refuse to grant any such licence for any new private market. The council may, however, at any time, for breach of the conditions thereof, suspend or cancel any licence which has been granted under this Section. The council may also modify the conditions of the licence to take effect from a specified date.

(4) When a licence is granted, refused, suspended, cancelled or modified under this Section, the council shall cause a notice of such grant, refusal, suspension cancellation or modification in English and a language of the district to be posted in some conspicuous place at or near the entrance to the place in respect of which the licence was sought or had been obtained.

(5) Every licence granted under this Section shall expire at the end of the year.

Fees for licence.

275. When a licence granted under Section 274 permits the levy of any fees of the nature specified in sub-section (2) of Section 272, a fee not exceeding fifteen per centum of the gross income of the owner from the market in the preceding year shall be charged by the municipal council for such licence.

Sale in unlicensed private markets.

276. It shall not be lawful for any person to sell or expose for sale any animal or article in any unlicenced private market.

Powers of council in respect of private markets.

277. The council may by notice require the owner, occupier, or farmer of any private market to—

(*a*) construct approaches, entrances, passages, gates, drains and cess-pits for such market and provide it with latrines of such description and in such position and number as the council may think fit;

(*b*) roof and pave the whole or any portion of it or pave any portion of the floor with such material as will in the opinion of the council secure imperviousness and ready cleansing;

(*c*) ventilate it properly and provide it with a supply of water;

(*d*) provide passages of sufficient width between the stalls and make such alterations in the stalls, passages, shops, doors or other parts of the market as the council may direct ; and

(*e*) keep it in a cleanly and proper state and remove all filth and refuse therefrom

Suspension or refusal of licence in default.

278. (1) If any person after notice, given to him in that behalf by the council fails within the period and in the manner laid down in the said notice to carry out any of the works specified in Section 277 the council may suspend the licence of the said person, or may refuse to grant him a licence, untill such works have been completed.

(2) It shall not be lawful for any person to open or keep open any such market after such suspension or refusal.

Prohibition against nuisances in private markets.

279. No owner, occupier, agent or manager in charge of any private market or of any shop, stall, shed or other place therein shall keep the same so that it is a nuisance or fail to cause anything that is a nuisance to be at once removed to a place to be notified by the council.

Power to close private markets.

280. The council or any officer duly authorised by it in that behalf may close any private market in respect of which no licence has been applied or the licence for which has been refused withheld or suspended or which is held or kept open contrary to the provisions of this Act.

Acquisition of rights of private persons to hold private markets.

281: (1) A municipal council may acquire the rights of any person to hold a private market in any place and to levy fees therein. The acquisition shall be made under the Land Acquisition Act and such rights shall be deemed to be land for the purposes of that Act.

(2) On payment by the municipal council of the compensation awarded under the said Act in respect of such property and any other charges incurred in acquiring it, the rights of such person to hold a private market and to levy fees therein shall vest in the municipal council.

Duty of expelling lepers, etc., from markets and power to expel disturbers

282 The person in charge of a market shall prevent the entry therein or expel therefrom any person suffering from any dangerous disease who sells or exposes for sale therein any article or who, not having purchased the same, handles any articles expose for sale therein, and he may expel therefrom any person who is creating a disturbance therein.

283. (1) No person shall without or otherwise than in conformity with a licence from the executive authority carry on the trade of a butcher, fishmonger or poulterer or use any place for the sale of flesh or fish intended for human food in any place within municipal limits or at a distance within three miles of such limits :

Butcher's, fishmonger's and poulterer's licence.

Provided that no licence shall be required for a place used for the selling or storing for sale preserved flesh or fish contained in air-tight and hermetically sealed receptacles.

(2) The executive authority may, by an order and subject to such restrictions as to supervision and inspection as he thinks fit grant or refuse to grant such licence.

(3) Every such licence shall expire at the end of the year in which it is granted unless for special reasons the executive authority considers it should expire at an earlier date, when it shall expire at such earlier date as may be specified therein.

284. The executive authority may, with the sanction of the council, prohibit by public notice or licence, or regulate the sale or exposure for sale, of any animals or articles in or on any public street or part thereof.

Power to prohibit or regulate sale of articles in public streets.

285. If any question arises whether any place where persons assemble for the sale or purchase of articles of food or clothing, of livestock or poultry, of cocoanut or palmyra products or other industrial crops or of any other raw or manufactured products is a market or not the municipal council shall make a reference to Our Government and the decision of Our Government on the question shall be final.

Decision of disputes as to whether places are markets.

Cart Stands.

286. (1) The municipal council may construct or provide public landing places, halting places and cart stands and may levy fees for the use of the same.

Provision of public cart-stands etc.

(2) A statement in English and a language of the district of the fees fixed by the council for the use of such place shall be put up in a conspicuous part thereof.

Explanation—A cart-stand shall, for the purposes of this Act include a stand for carriages and animals.

287. Where a municipal council has provided a public landing place, halting place or cart-stand, the executive authority may prohibit the use for the same purpose by any person within such distance thereof, as may be determined by the municipal council, of any public place or the sides of any public street.

Prohibition of use of public place or sides of public street as cart-stand, etc.

288. If the fee leviable under sub-section (1) of Section 286 is not paid on demand, it shall be recoverable in the manner laid down in Section 113 as if it were an unpaid toll.

Recovery of cart-stand fees, etc.

289 (1) No person shall open a new private cart stand or continue to keep open a private cart-stand unless he obtains from the council a licence to do so.

Licence for private cart-stand.

(2) Application for such licence shall be made by the owner of the place in respect of which the licence is sought not less than six weeks before such place is opened as a cart-stand or before the commencement of the year for which the licence is sought, as the case may be.

(3) The council shall, as regards private cart-stands already lawfully established and may, at its discretion, as regards new private cart stands, grant the licence applied for subject to such regulations as to supervision and inspection and to such conditions as to conservancy as the council may think proper; or the council may refuse to grant any such licence for any new private cart stand. The council may, however, at any time for breach of the conditions thereof suspend or cancel any licence which has been granted under this Section. The council may also modify the conditions of the licence to take effect from a specified date.

(4) When a licence is granted, refused, suspended, cancelled or modified under this Section, the council shall cause a notice of such grant, refusal, suspension, cancellation or modification, in English and a language of the district to be posted in some conspicuous place at or near the entrance to the place in respect of which the licence was sought or had been obtained.

(5) The council may levy for every licence granted under this Section a fee not exceeding three hundred rupees per annum.

(6) Every licence granted under this Section shall expire at the end of the year.

Places of Public entertainments.

290. No exhibition of pictures or other optical effects by means of a cinematograph or similar apparatus for the purposes of which inflammable films are used and no public musical or dramatic performance, pantomime or circus shall be given in the municipality elsewhere than in the premises for which a licence has been granted by the executive authority under this Section :

Prohibition of cinematograph and dramatic performance except in licensed premises.

Provided that the provisions of this Section shall not apply to buildings belonging to or under the control of Our Government.

Inspection of places for sale, etc.

291. It shall be the duty of the executive authority to make provision for the constant and vigilant inspection of animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread flour, milk, ghee, butter, oil and any other articles exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale.

Duty of executive authority to inspect.

292. (1) The executive authority or any person authorised by him in writing for the purpose may without notice enter any slaughter-house or any place where animals, poultry or fish intended for food are exposed for sale or where articles of food are being manufactured or exposed for sale at any time by day or night when the slaughter, exposure for sale or manufacture is being carried on and inspect the same and any utensil or vessel used for manufacturing, preparing or containing any such article.

Powers of executive authority for purposes of inspection.

(2) If the executive authority or any person so authorised by him has reason to believe that in any place any animal intended for human food is being slaughtered or any carcass is being skinned or cut up, or that any food is being manufactured, stored, prepared, packed, cleansed, kept or exposed for sale, or sold without or otherwise than in conformity with a licence, he may enter any such place without notice, at any time by day or night for the purpose of satisfying himself whether any provision of laws, bye-laws or regulations or any condition of a licence is being contravened.

(3) No claim shall lie against the executive authority or any person acting under his authority or the council for any damage or inconvenience necessarily caused by the exercise of powers under this Section or by the use of any force necessary for effecting an entry into any place under this Section.

(4) In any legal proceedings in respect of powers exercised under this Section in which it is alleged that any animals, poultry, fish or articles of food were not kept exposed, hawked about, manufactured, prepared, stored, packed or cleansed for sale, or were not intended for human food, the burden of proof shall lie on the party so alleging.

293. No person shall in any manner whatsoever prevent the executive authority or person duly authorised by him exercising his powers under the last preceding Section.

Preventing inspection by executive uthority.

294. If any animal, poultry or fish intended for food appears to the executive authority or to a person duly authorized by him, to be diseased, or any food appears to him to be noxious, or if any vessel or utensil used in manufacturing, preparing or containing such article appears to be of such kind or in such state as to render the article noxious, he may seize or carry away or secure such animal, article, utensil, or vessel, in order that the same may be dealt with as hereinafter provided.

Power of executive authority to seize diseased animal, noxious food, etc.

Explanation—Meat subject to the process of blowing shall be deemed to be noxious.

295. No person shall remove or in any way interfere with an animal or article secured under the last preceding Section.

Removing or interfering with articles seized.

296. (1) When any animal or article of food is seized under Section 294 it may, with the consent of the owner or person in whose possession it was found, be forthwith destroyed in such manner as to prevent its being used for human food or exposed for sale, and if the article is perishable, without such consent.

Power to destroy articles seized.

(2) Any expenses incurred in destroying any animal or article under subsection (1) shall be paid by the owner or person in whose possession it was at the time of its seizure.

297. (1) Article of food, animals, poultry, fish, utensils, vessels etc., seized under Section 294 and not destroyed under Section 296 shall as soon as possible be produced before a magistrate.

Production of article seized before magistrate and powers of magistrate to deal with them.

(2) Whether or not complaint is laid before a magistrate of any offence under the Travancore Penal Code or under this Act, if it appears to the magistrate on taking such evidence as he thinks necessary that any such animal, poultry or fish is diseased, or any such article is noxious or any such utensil or vessel is of such kind or in such state as is described in Section 294 he may order the same—

(*a*) to be forfeited to the council;

(*b*) to be destroyed at the charge of the owner or person in whose possession it was at the time of seizure, in such manner as to prevent the same being again exposed or hawked about for sale, or used for human food or for the manufacture or preparation of, or for containing, any such article as aforesaid.

Disposal of the dead.

298. (1) Every owner or person having the control of any place used at the date of the coming into operation of this Act as a place for burying, burning, or otherwise disposing of the dead shall, if such place be not already registered, apply to the council to have such place registered.

Registration or closing of ownerless places for disposal of the dead.

(2) If it appears to the council that there is no owner or person having the control of such place it shall assume such control and register such place or may, with the sanction of our Government, close it.

299. (1) No new place for the disposal of the dead, whether public or private, shall be opened, formed, constructed, or used unless a licence has been obtained from the council on application.

Licensing of places for disposal of the dead.

(2) Such application for a licence shall be accompanied by a plan of the place to be registered showing the locality, boundary and extent thereof, the name of the owner or person or community interested therein, the system of management and such further particulars as the council may require.

(3) The council may :—

(*a*) grant or refuse a licence, or

(*b*) postpone the grant of a licence until objections to the site have been removed or any particulars called for by it have been furnished.

300. (1) The council may and shall if no sufficient provision exists provide at the cost of the municipal fund places to be used as burial or burning grounds or crematoria, either within or without the limits of the municipality, and may charge rents and fees for the use thereof.

Provision of burial and burning grounds and crematoria within or without municipality

(2) The council may farm out the collection of such rents and fees for any period not exceeding three years at a time and on such terms and conditions as it may think fit.

(3) If the council provides any such place without the limits of the municipality, all the provisions of this Act and all bye-laws framed under this Act for the management of such places within the municipality shall apply to such place.

301. (1) A book shall be kept at the municipal office in which the places registered licensed, or provided under Sections 298, 299, 300 and all such places registered, licensed, or provided before the commencement of this Act shall be recorded, and the plans of such places shall be filed in such office.

Register of registered, licensed and provided places and prohibition of use of other places.

(2) Notice that such place has been registered, licensed or provided as aforesaid shall be affixed in English and in at least one language of the district to some conspicuous place at or near the entrance to the burial or burning ground or other place as aforesaid :

(3) No person shall bury, burn or otherwise dispose of any corpse except in a place which has been registered, licensed or provided as aforesaid.

Provided, however, that it shall be lawful for the executive authority to permit any burial or burning in private ground in individual cases.

Report of burials and burnings.

302. The person having control of a place for disposing of the dead shall give information of every burial, burning or other disposal of a corpse at such place to any person appointed by the executive authority in that behalf.

Prohibition against use of burial and burning grounds dangerous to health or overcrowded with graves.

303. (1) If the council is satisfied—

(*a*) that any registered or licensed place for the disposal of the dead is in such a state or situation as to be or to be likely to become, dangerous to the health of persons living in the neighbourhood thereof, or

(*b*) that any burial ground is overcrowded with graves.

And if in the case of a public burial or burning ground or other place as aforesaid another convenient place duly authorised for the disposal of the dead exists or has been provided for the persons who would ordinarily make use of such place,

it may with the previous sanction of Our Government give notice that it shall not be lawful after a period to be named in such notice to bury, burn or otherwise dispose of any corpse at such place.

(2) Every notice given under sub-section (1) shall be published in Our Government Gazette and by beat of drum.

(3) After the expiry of the period named in such notice it shall not be lawful to bury, burn or otherwise dispose of a corpse at such place.

Prohibitions in respect of corpses.

304. No person shall—

(*a*) bury or cause to be buried any corpse or part thereof in a grave whether dug or constructed of masonry or otherwise, in such manner that the surface of the coffin or the surface of the body where no coffin is used, is at a less depth than five feet from the surface of the ground ; or

(b) build or dig or cause to be built or dug any grave in any burial ground at a less distance than two feet from the margin of any other existing grave ; or

(c) without the sanction in writing of the executive authority or an order in writing of a magistrate, re-open a grave already occupied ; or

(d) convey or cause to be conveyed a corpse or part thereof to any burial or burning ground, and not cause the burial or burning of the same to commence within six hours after its arrival at such place ; or

(e) when burning or causing to be burnt a corpse or part thereof permit the same or any part thereof or its clothes to remain without being completely reduced to ashes ; or

(f) carry through any street a corpse or part thereof not decently covered ; or

(g) while carrying a corpse or part thereof within the municipality leave the same in or near any street for any purpose whatever ; or

(h) remove, otherwise than in a closed receptacle, any corpse or part there of kept or used for the purpose of dissection.

Grave-digger's licence

305. No person shall discharge the office of a grave-digger or other attendant at a public place for the disposal of the dead (other than a place pro vided by Our Government) unless he has been licensed in that behalf by the executive authority. Such licence may be withdrawn or cancelled at the discretion of the council.

CHAPTER XIII—VITAL STATISTICS AND THE PREVENTION OF DISEASE.

Vital Statistics.

Compulsory registration of vital statistics.

306. (1) The municipal council shall register all births and deaths occurring in the municipality.

(2) Information of births and deaths shall be given and their registration shall be made and enforced in the prescribed manner.

Dangerous diseases.

Definition of 'dangerous disease.'

307. 'Dangerous disease' means a disease specified in Schedule IV and includes any disease so notified by Our Government.

308. (1) If any medical practitioner becomes cognizant of the existence of any dangerous disease in any private or public dwelling (not being a public hospital) in the municipality, he shall inform the executive authority with the least practicable delay.

Obligation of medical practitioner or owner or occupier of house to report dangerous disease.

(2) The information shall be communicated in such form and with such details as the executive authority may require. The executive authority may pay a fee not exceeding one rupee for each intimation by a private medical practitioner occurring in his practice.

(3) This Section shall apply to a hakim or a vaidyan.

(4) With the previous approval in all cases of the Peishkar the executive authority may direct the compulsory notification by the owner or occupier of every house within the municipal limits during such period and to such officer as the executive authority may prescribe of all deaths from or occurrence of dangerous diseases in his house.

309. The executive authority or health officer may at any time by day or by night without notice or after giving such notice as may appear to him reasonable, inspect any place in which any dangerous disease is reported or suspected to exist, and take such measures as he may think fit to prevent the spread of such disease beyond such place.

Power of entry into suspected places.

310. (1) If the executive authority or health officer is of opinion that the cleansing or disinfecting of any premises or part thereof, or of any article therein which is likely to retain infection, will tend to prevent or check the spread of any dangerous disease, he may by notice require the occupier to cleanse or disinfect the same in the manner and within the time specified in such notice.

Disinfection of buildings and articles.

(2) If the executive authority or health officer considers that immediate action is necessary, or that the occupier is, by reason of poverty or otherwise unable effectually to comply with his requisition, the executive authority or health officer may himself, without notice, cause premises or articles to be cleansed or disinfected and for this purpose may cause such article to be removed from the premises; and the expenses incurred by the executive authority or health officer shall be recoverable from the said occupier in cases in which he is, in the opinion of the executive authority or health officer, not unable by reason of poverty effectually to comply with such requisition.

Provision of places for disinfection and power to destroy infected articles.

311. (1) The executive authority shall from time to time notify places at which conveyances, clothing, bedding, or other articles which have been exposed to infection from any dangerous disease shall be washed or disinfected.

(2) The executive authority may direct any clothing, bedding or other articles likely to retain such infection to be disinfected or destroyed and shall, on demand, give compensation for any article destroyed under this sub-section.

(3) No person shall wash such clothing or bedding or other articles in any places other than those set apart for such purposes under sub-section (1).

Prohibition against transfer of infected articles.

312. No person shall, without previously disinfecting it, give, lend, let, hire, sell, transit or otherwise dispose of any article which he knows or has reason to know has been exposed to infection from any dangerous disease:

Provided that nothing in this sub-section shall apply to a person who transmits with proper precautions any article for the purpose of having it disinfected.

Power of council to prohibit use of water likely to spread infection.

313. If the health officer or the local medical officer certifies that the water in any well, tank or other place within the limits of the municipality is likely, if used for drinking, to endanger or cause the spread of any dangerous disease, the council may, by public notice, prohibit the removal or use of such water for drinking and domestic purposes during a specified period.

Executive authority may order removal of patients to hospital.

314. When a hospital or other place for the reception of persons suffering from dangerous diseases is provided by the municipal council the executive authority may, on a certificate signed by the local medical officer, arrange for, or direct the removal to such hospital or place of any person suffering from a dangerous disease who is, in the opinion of such officer, without proper lodging or accommodation, or without medical supervision directed to prevent the spread of the disease, or who is in a place occupied by more than one family.

Prohibition against infected person carrying on occupation.

315. If any person knows or has been certified by the health officer, the local medical officer, or a qualified medical practitioner that he is suffering from a dangerous disease he shall not engage in any occupation or carry on any trade or business unless he can do so without risk of spreading the disease.

316. (1) No person who is suffering from any dangerous disease shall, without taking proper precautions against spreading such disease, cause or suffer himself to be conveyed in a public conveyance.

Prohibition against diseased person entering public conveyance

(2) No person who is suffering from any dangerous disease shall enter a public conveyance without previously notifying to the owner or driver or person in charge of such conveyance that he is so suffering.

(3) No owner, driver, or person in charge of public conveyance shall knowingly carry or permit to be carried in such conveyance any person suffering as aforesaid in contravention of sub-section (1).

(4) No owner, driver or person in charge of a public conveyance shall be bound to convey any person suffering as aforesaid, unless and until the said person pays or tenders a sum sufficient to cover any loss and costs that may be incurred in disinfecting such conveyance, anything in any Act relating to public conveyances for the time being in force to the contrary notwithstanding.

(5) A court convicting any person of contravening sub section (1) or sub-section (2) may levy, in addition to the penalty for the offence provided in this Act an additional fine of such amount as the court deems sufficient to cover the loss and costs which the owner or driver must incur for the purpose of disinfecting the conveyance. The amount of any additional fine so imposed shall be awarded by the court to the owner or driver of the conveyance:

Provided that if such additional fine is imposed in a case which is subject to appeal the amount shall not be paid to the owner or driver before the period allowed for presenting the appeal has elapsed; or if an appeal is presented, before the decision of the appeal.

(6) At the time of awarding compensation in any subsequent civil suit relating to the same matter the court shall take into account any sum which the plaintiff shall have received under this Section.

317. (1) No person shall let or sublet or for that purpose allow any person to enter a building or any part of a building in which he knows or has reason to know that a person has been suffering from any dangerous disease without having the same and all articles therein liable to retain infection disinfected to the satisfaction of the executive authority.

Letting of infected buildings.

(2) For the purpose of sub-section (1), the keeper of a hotel or lodging-house shall be deemed to let the same or part of the same to any person accommodated therein.

318. In the event of the prevalence of any dangerous disease within the municipality, the council may by notice require the owner or occupier of any building, booth or tent used for purposes of public entertainment to close the same for such period as it may fix.

Power to order closure of places of public entertainment.

319. No person being the parent or having the care or charge of a minor who is or has been suffering from a dangerous disease or has been exposed to infection therefrom shall, after a notice from the health officer or the local medical officer that the minor is not to be sent to school or college, permit such minor to attend school or college without having procured from the health officer, the local medical officer or a qualified medical practitioner a certificate that in his opinion such minor may attend without undue risk of communicating such disease to others.

Minor suffering from dangerous disease not to attend school.

No fee shall be charged by the health officer or the local medical officer for the grant of a certificate under this Section.

Smallpox.

320. (1) Vaccination shall be compulsory in every municipality in respect of such persons and to such extent as may be prescribed.

Vaccination.

(2) The procedure prescribed in such rules for enforcing vaccination shall be observed.

321. Where an inmate of any dwelling place is suffering from smallpox the head of the family to which the inmate belongs and in his default, the occupier or person in charge of such place, shall inform the executive authority with least practicable delay.

Obligation to give information of smallpox.

322. (1) Inoculation for smallpox is hereby prohibited.

Prohibition of inoculation for smallpox.

(2) No person who has undergone the operation of inoculation shall enter any municipality before the lapse of forty days from the date of inoculation without a certificate from a medical practitioner of such class as the council may authorise to grant such certificates, stating that such person is no longer likely to produce small pox by contact or near approach.

PART V.—SUBSIDIARY LEGISLATION AND PENALTIES.

CHAPTER XIV.—RULES, BYE-LAWS AND REGULATIONS.

Rules and Schedules.

Power of Government to make rules.

323. (1) Our Government may make rules to carry out all or any of the purposes of this Act not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power they may make rules—

(*a*) with reference to all matters expressly required or allowed by this Act to be prescribed ;

(*b*) with reference to all matters not expressly provided for in this Act, relating to the elections of chairmen, vice-chairmen or councillors including election petitions and deposits to be made by candidates standing for election as councillors and the conditions under which such deposits may be forfeited :

Provided that the deposit required shall not exceed one hundred rupees ;

(*c*) as to the conditions on which property may be acquired by the municipal council or on which property vested in or belonging to the municipal council may be transferred by sale, mortgage, lease, exchange or otherwise ;

(*d*) as to the working of provident funds ;

(*e*) as to the matters mentioned in rule 37 of the Taxation and Finance Rules in Schedule II, as to the conditions on which grants in aid shall be paid from the municipal fund for purposes of education and medical relief and as to the conditions on which grants and loans may be made to co-operative building societies ;

(*f*) as to the intermediate offices, if any, through which correspondence between the municipal authorities and Our Government or officers of Our Government shall pass ;

(*g*) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of the municipal council and the power of the municipal authorities or Government officers to accord professional or administrative sanction to estimates;

(*h*) as to the accounts to be kept by the municipal council, the manner in which such accounts shall be audited and published and as to the conditions under which the rate-payers may appear before auditors, inspect books and vouchers and take exception to items entered or omitted therein;

(*i*) as to the estimates of receipts and expenditure, returns statements and reports to be submitted by municipal councils;

(*j*) as to the mode in which the officers of Government shall advise and assist municipal councils in carrying out the purposes of this Act;

(*k*) as to the interpellation of the chairman by the members of the council;

(*l*) as to the moving of resolutions at the meetings of the council;

(*m*) for regulating the sharing between local authorities of the proceeds of the profession tax, tax on carriages and animals, tax on carts, tolls and other taxes or income, levied or obtained under this or any other Act ;

(*n*) as to the form of registers and returns of births and deaths and the manner in which the registers shall be maintained, the dates on which returns shall be made and the officer to whom returns shall be sent;

(*o*) as to the transfer of allotments entered in the sanctioned budget of a municipal council from one head to another;

(*p*) as to the powers of auditors, inspecting and superintending officers and officers authorized to hold inquiries, to summon and examine witness, and to compel the production of documents and all other matters connected with audit, inspection and superintendence; and

(*q*) for determining the cost of buildings and lands.

(3) In making any rule Our Government may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees.

324. The power to make rules under Section 323 is subject to the following conditions :—

Making of rules after previous publication.

(*a*) A draft of the rules shall be published in Our Government Gazette.

(*b*) Such draft shall not be further proceeded with until six weeks after such publication or until such later date as Our Government may appoint.

(*c*) All rules made under Section 305 shall be published in Our Government Gazette and upon such publication shall have effect as if enacted in this Act.

325. (1) Our Government may make rules altering, adding to or cancelling any of the Schedules to this Act except Schedules V and VI.

Power of Government to alter schedules.

(2) All references made in this Act to any of the aforesaid Schedules shall be construed as referring to such Schedules as for the time being amended in exercise of the powers conferred by sub-section (1).

Bye-laws.

326. The council may make bye-laws, not inconsistent with this Act or with any other law to provide—

Power of Council to make bye-laws.

(1) for all matters expressly required or allowed by this Act to be provided for by bye-law;

(2) for the due performance by all municipal officers and servants of the duties assigned to them;

(3) for the regulation of the time and mode of collecting the taxes, duties and tolls under this Act;

(4) for determining the conditions under which lands shall be deemed to be appurtenant to buildings;

(5) (*a*) for the use of public tanks, wells, conduits and other places or works for water-supply;

(*b*) for the regulation of public bathing, washing and the like;

(*c*) for the maintenance and protection of the water-supply system and the protection of the water-supply from contamination;

(*d*) for the conditions on which house-connections with the council's water-supply mains may be made; for their alteration and repair and for their being kept in proper order;

(*e*) for supply of water for domestic consumption and use;

(*f*) for the prevention of waste of water;

(*g*) for the measurement of water;

(*h*) for the compulsory provision of cisterns and meters;

(*i*) for the supply of water in case of fire;

(6) for the maintenance and protection of the lighting system;

(7) (*a*) for the maintenance and protection of the drainage system;

(*b*) for the construction of house drains, and for regulating their situation, mode of construction and materials;

(*c*) for the alteration and repair of house drains;

(*d*) for the cleansing of house drains;

(*e*) for the construction of cess pools, septic tanks, filters and drains;

(*f*) for the payment or apportionments of money payable on account of pipes or drains common to more premises than one;

(8) for the cleansing of latrines, earth-closets, ash pits and cess pools, and the keeping of latrines supplied with sufficient water for flushing;

(9) (*a*) for the testing of water pipes and drains in private premises, the recovery or the apportionment of the cost of such testing, and the breaking up of ground or of buildings for the purpose of such testing;

(*b*) for the licensing of plumbers and fitters, and for the compulsory employment of licensed plumbers and fitters ;

(10) (*a*) for the laying out of streets, and for determining the information and plans to be submitted with applications for permission to lay out streets ; and for regulating the level and width of public streets and the height of buildings abutting thereon;

(*b*) for the regulation of the use of public streets, and the closing thereof of parts thereof ;

(*c*) for the regulation of traffic in public streets, or their reservation for particular kinds of traffic ;

(*d*) for the protection of avenues trees, grass and other appurtenances of public streets and other places ;

(11) for the regulation of the use of parks, gardens and other public or municipal places ;

(12) (*a*) for the regulation of building ;

(*b*) for determining the information and plans to be submitted with applications to build ;

(*c*) for the licensing of builders and surveyors and for the compulsory employment of licensed builders and surveyors ;

(13) for the regulation of hotels, lodging houses, boarding houses, choultries, rest-houses, emigration depots, restaurants, eating houses, cafes, refreshment rooms, coffee houses, and any premises to which the public are admitted for repose or for the consumption of any food or drink ;

(14) for regulating the mode of constructing stables, cattle-sheds and cow-houses and connecting them with municipal drains ;

(15) for the sanitary control and supervision of places used for any of the purposes specified in Schedule III and of any trade or manufacture carried on therein ;

(16) (*a*) for the control and supervision of slaughter-houses and of places used for skinning and cutting up carcasses ;

(*b*) for the control and supervision of the methods of slaughtering;

(*c*) for the control and supervision of butchers carrying on business in the municipality or at any slaughter-house without the municipality provided or licensed by the municipal council ;

(17) for the inspection of milch cattle and the regulation of the ventilation, lighting, cleaning, drainage and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairyman or milk-seller ;

(18) for enforcing the cleanliness of milk stores and milk shops and vessels and utensils used by the keepers thereof or by hawkers for containing or measuring milk or preparing any milk product and for enforcing the cleanliness of persons employed in the milk trade ;

(19) for requiring notice to be given whenever any milch animal is affected with any contagious disease and prescribing the precautions to be taken in order to protect milch cattle and milk against infection and contamination ;

(20) (*a*) for the inspection of public and private markets and shops and other places therein ;

(*b*) for the regulation of their use and the control of their sanitary condition ;

(*c*) for licensing and controlling brokers, commission agents, weighmen and measurers practising their calling in markets ;

(21) for prescribing the method of sale of articles whether by measure, weight, tale or piece ;

(22) for prescribing and providing standard weights, scales and measures and preventing the use of any others ;

(23) for the prevention of the sale or exposure for sale of unwholesome meat, fish or provisions and securing the efficient inspection and sanitary regulation of shops in which articles intended for human food are kept or sold ;

(24) (*a*) for the regulation of burial and burning grounds and other places for the disposal of corpses ;

(*b*) for the levy of fees for the use of such burial and burning grounds and crematoria as are maintained by the council ;

(*c*) for the verification of deaths and the causes of death ;

(*d*) for the period for which corpses must be kept for inspection ;

(*e*) for the period within which corpses must be conveyed to a burial or burning ground, and the mode of conveyance of corpses through public places ;

(25) for the registration of births, deaths and marriages ;

(26) for the training and licensing of *pathichies* and midwives;

(27) for the enumeration of the inhabitants of the city ;

(28) for the prevention of dangerous diseases of men or animals ;

(29) for the enforcement of compulsory vaccination ;

(30) for the prevention of outbreaks of fire ;

(31) for the prohibition and regulation of advertisements in public streets or parks ;

(32) for the regulation, control and inspection of places of public entertainment.

(33) In general for securing cleanliness, safety and order and the good government and well being of the municipality and for carrying out all the purposes of this Act.

327. Bye-laws with regard to the drainage of, and supply of water to, buildings and water-closets, earth-closets, privies, ashpits and cess-pools in connection with buildings and the keeping of water-closets supplied with sufficient water for flushing may be made so as to affect buildings erected before the passing of the bye-laws or this Act.

Power to give retrospective effect to certain bye-laws.

328. In making a bye-law, the municipal council may provide that a breach thereof shall be punishable—

Penalty for breaches of bye-laws.

(*a*) with fine which may extend to fifty rupees, and in case of a continuing breach with fine which may extend to fifteen rupees for every day during which the breach continues after conviction for the first breach, or

(*b*) with fine which may extend to ten rupees for every day during which the breach continues after receipt of notice from the executive authority to discontinue such breach.

329. The municipal council shall, before making or altering bye-laws, publish a draft of the proposed bye-laws and alterations together with a notice specifying a date at or after which such draft will be taken into consideration, and shall, before making the bye-laws or alterations, receive and consider any objection or suggestion which may be made in respect of such draft by any person interested therein before the date so specified.

Conditions precedent to making of bye-laws.

330. (1) No bye-law or cancellation or alteration of a bye-law shall have effect until the same shall have been approved and confirmed by Our Government.

Confirmation of bye-laws by Our Government.

(2) Any bye-law or cancellation or alteration of a bye-law when it shall have been duly confirmed shall be published in Our Government Gazette and shall come into operation on such publication unless otherwise provided.

331. Our Government may cancel their confirmation of any bye-law and thereupon the bye-law shall cease to have effect.

Cancelling of bye-laws by Government.

Publication of rules, bye-laws and regulations.

332. Complete copies in English and in a language of the district :—

Copies of Act, rules and bye-laws to be sold at municipal office.

(*a*) of this Act,

(*b*) of all rules framed by Our Government under clause (*b*) of sub-section (2) of Section 323, and

(*c*) of all bye-laws in force for the time being, shall be kept at the municipal office and shall be sold to the public at cost price.

333. Regulations made by the municipal authorities under this Act shall be published in such manner as the council may determine.

Publication of regulations.

CHAPTER XV.– PENALTIES.

334. (1) Whoever:—

General provisions regulating penalties specified in the Schedule.

(*a*) contravenes any provision of any of the Sections or rules specified in the first column of Schedule V, or

(*b*) contravenes any rule or order made under any of the specified Sections or rules, or

(*c*) fails to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of the provisions of any of the said Sections or rules,

shall on conviction be punished with fine which may extend to the amount mentioned in that behalf in the fourth column of the said schedule.

(2) Whoever after having been convicted of—

(*a*) contravening any provision of the Sections or rules specified in the first column of Schedule VI, or

(*b*) contravening any rule or order made under any of the specified Sections or rules, or

(*c*) failing to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of any of the said Sections or rules,

continues to contravene the said provision or to neglect to comply with the said direction or requisition, as the case may be, shall on conviction be punished for each day after the previous date of conviction during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the fourth column of the said schedule.

Explanation—The entries in the third column of Schedules V and VI headed 'subject' are not intended as definitions of the offences described in the Sections, sub-sections, or clauses mentioned in the first and second columns or even as abstracts of those Sections, sub-sections or clauses, but are inserted merely as references to the subject to the Sections, sub-sections or clauses, as the case may be.

335. (1) Whoever acts as a member of a municipal council knowing that under this Act or the rules made thereunder he is not entitled or has ceased to be entitled to hold such office shall on conviction, be punished with fine not exceeding two hundred rupees for every such offence.

Penalty for acting as councillor, chairman or vice-chairman when disqualified.

(2) Whoever acts as or exercises the functions of the chairman or vice-chairman of a municipal council knowing that

under this Act or the rules made thereunder he is not entitled or has ceased to be entitled to hold such office or to exercise such functions shall, on conviction, be punished with fine not exceeding one thousand rupees for every such offence.

(3) If the chairman or vice-chairman of a municipal council fails to hand over any documents of, or any moneys or other properties vested in, or belonging to, the municipal council which are in or have come into his possession or control, to his successor in office or other prescribed authority, in every case as soon as his term of office as chairman or vice-chairman expires and in the case of the vice-chairman also on demand by the chairman, such chairman or vice-chairman shall, on conviction, be punished with fine not exceeding one thousand rupees for every such offence.

Penalty for acquisition by municipal officer of interest in contract or work.

336. If any municipal officer or servant knowingly acquires, directly or indirectly, by himself or by a partner or employer or servant, any personal share or interest in any contract or employment with, by, or on behalf of the municipal council, he shall be deemed to have committed an offence under Section 160 of the Travancore Penal Code:

Provided that no person shall, by reason of being a share-holder in, or member of, any company, be held to be interested in any contract entered into between such company and the council, unless he is a director of such company:

Provided further that nothing in this Section shall apply to a teacher employed by a municipal council who, with the sanction of Our Government, enters into a contract with the municipal council with regard to the utilization for the purpose of a school of any land or building owned by him or in which he has a share or interest.

Penalty for omission to take out licence for vehicle or animal.

337. (1) Every owner or person in charge of any vehicle or animal liable to tax under Section 98 who omits to obtain a licence shall on conviction be punished with fine not exceeding fifty rupees and shall also pay the amount of the tax payable by him in respect of such vehicle or animal.

(2) On payment of such fine and tax and of such costs as may be awarded, such owner or person shall receive a licence for the vehicle or animal in respect of which he has been fined and for the period during which he has been found to be in default.

(3) The provisions of this Section shall apply to any person who, having compounded for the payment of a certain sum under Section 101, fails to pay such sum, and the amount due for a licence shall in such case be taken as the amount so compounded for.

338. If the construction or reconstruction of any building or well—

Penalty for unlawful building.

(*a*) is commenced without the permission of the executive authority, or

(*b*) is carried on or completed otherwise than in accordance with the particulars on which such permission was based, or

(*c*) is carried on or completed in contravention of any lawful order or in breach of any provision contained in this resolution or in any rule or bye-law made hereunder or of any direction or requisition lawfully given or made, or

if any alteration or additions required by any notice issued under Section 217 or Section 227 are not duly made, or

if any person to whom a direction is given by the executive authority to alter or demolish a building or well under Section 227 fails to obey such direction, the owner of the building or well or the said person, as the case may be, shall be liable on conviction to a fine which may extend in the case of a building to five hundred rupees and in the case of a well or hut to fifty rupees, and to a further fine which may extend in the case of a building to one hundred rupees, and in the case of a well or hut to ten rupees, for each day during which the offence is proved to have continued after the first day.

Notice to scavengers before discharge.

339. (1) In the absence of a written contract to the contrary, every scavenger employed by the municipal council shall be entitled to one month's notice before discharge or to one month's wages in lieu thereof, unless he is discharged for misconduct or was engaged for a specified term and discharged at the end of it.

Penalty for withdrawal of scavengers without notice.

(2) Should any scavenger employed by the council, in the absence of a written contract authorising him so to do and without reasonable cause, resign his employment or absent himself from his duties without giving one month's notice to the council, or neglect or refuse to perform his duties, or any of them, he shall be liable on conviction to a fine not exceeding fifty rupees or to imprisonment of either description which may extend to two months.

Application of sub-sections (1) and (2) to other municipal servants.

(3) Our Government may, by notification, direct that, on and from a date to be specified in the notification, the provisions of sub-sections (1) and (2) with respect to scavengers shall apply also to any specified class of municipal servants whose functions intimately concern the public health or safety.

340. Every person who prevents the executive authority or any person to whom the executive authority has lawfully delegated his powers of entering into or on any land or building, from exercising his lawful power of entering thereinto or thereon shall be deemed to have committed an offence under Section 342 of the Travancore Penal Code.

Wrongful restraint of executive authority and his delegates.

341. If any person who is required by the provisions of this Act or by any notice or other proceedings issued under this Act to furnish any information—

Penalty for not giving or giving false, information.

(*a*) omits to furnish it, or

(*b*) knowingly or negligently furnishes false information, such person shall be liable to a fine not exceeding Rs. 100.

PART VI.

Chapter XVI—Procedure and Miscellaneous.

Licences and permissions.

342 (1) Every licence and permission granted under this Act or any rule or bye-law made under this Act shall specify the period, if any, for which, and the restrictions, limitations, and conditions, subject to which the same is granted, and shall be signed by the executive authority.

General provisions regarding licences and permissions.

(2) Save as otherwise expressly provided in or may be prescribed under this Act for every such licence or permission, fees may be charged on such units and at such rates as may be fixed by the municipal council.

(3) The council may farm out the collection of such fees for any period not exceeding three years at a time on such conditions as it thinks fit.

(4) Every order of a municipal authority granting or refusing a licence or permission shall be published on the notice board of the municipal council.

(5) Every order of a municipal authority refusing, suspending, cancelling or modifying a licence or permission shall be in writing and shall state the grounds on which it proceeds.

(6) Subject to the special provisions in Chapters X and XII regarding buildings and private markets, and subject to such sanction as may be required for the refusal of a licence or permission, any licence or permission granted under this Act or any rule or bye-law made under it may at any time be suspended or revoked by the executive authority if any of its restrictions, limitations or conditions is evaded or infringed by the grantee, or if the grantee is convicted of a breach of any of the provisions of this Act, or of

any rule, bye-law or regulation made under it in any matter to which such licence or permission relates, or if the grantee has obtained the same by misrepresentation or fraud.

(7) It shall be the duty of the executive authority to inspect places in respect of which a licence or permission is required by or under this Act, and he may enter any such place between sunrise and sunset and also between sunset and sunrise if it is open to the public or any industry is being carried on in it at the time; and if he has reason to believe that anything is being done in any place without a licence or permission where the same is required by or under this Act, or otherwise than in conformity with the same he may at any time by day or night without notice enter such place for the purpose of satisfying himself whether any provision of law, rules, bye-laws or regulations, any condition of a licence or permission or any lawful direction or prohibition is being contravened and no claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under this sub-section by the executive authority or any person to whom he has lawfully delegated his powers, or by any force necessary for effecting an entrance under this sub-section.

(8) When any licence or permission is suspended or revoked, or when the period for which it was granted, or within which application for renewal should be made, has expired, whichever expires later, the grantee shall for all purposes of this Act or any rule or bye-law made under this Act be deemed to be without a licence or permission until the order suspending or revoking the licence or permission is cancelled or, subject to sub-section (12) until the licence or permission is renewed, as the case may be.

(9) Every grantee of any licence or permission shall at all reasonable times, while such licence or permission remains in force, produce the same at the request of the executive authority.

(10) Whenever any person is convicted of an offence in respect of the failure to obtain a licence or permission or to make a registration required by the provisions of this Act, or any rule or bye-law made under this Act, the magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the municipal council the amount of the fee chargeable for the licence or permission or registration; and may in his discretion also recover summarily and pay over to the council such amount, if any, as he may fix as the costs of the prosecution.

(11) Such recovery of the fee under sub-section (10) shall not entitle the person convicted to a licence or permission or to registration as aforesaid.

(12) The acceptance by the municipal council of the pre-payment of the fee for a licence or permission or for registration shall not entitle the person making such pre-payment to the licence or permission or to registration, as the case may be, but only to refund of the fee in case of refusal of the licence or permission or of registration, but an applicant for the renewal of a licence or permission or registration shall until communication of orders on his application be entitled to act as if the licence or permission or registration had been renewed; and save as otherwise specially provided in this Act, if orders on an application for licence or permission or for registration are not communicated to the applicant within thirty days after the receipt of the application by the executive authority, the application shall be deemed to have been allowed for the year or for such less period as is mentioned in the application, and subject to the law, rules, bye-laws, regulations and all conditions ordinarily imposed.

Appeals.

343. (1) An appeal shall lie to the council from—

Appeals from executive authority to council.

(*a*) any notice issued or other action taken or proposed to be taken by the executive authority—

(i) under Sections 141, 150, 157, 158, 159, 161, 217 sub-section (1) and sub-section (3), 228 sub-section (3), 230 sub-section (1), 231 sub-section (1), 236 sub-section (1), 238 249, 259, 260;

(ii) under any bye-law concerning house drainage and the connection of house drains with municipal drains or house connections with municipal water supply or lighting mains; or

(*b*) any refusal by the executive authority to approve a building site under Section 212; or

(*c*) any order of the executive authority granting or refusing a licence or permission;

(*d*) any order of the executive authority made under Section 342 sub-section (6) suspending or revoking a licence; or

(*e*) any other order of the executive authority that may be made appealable by rules under Section 323.

(2) The decision of the council on any such appeal shall be final.

344. In any case in which no time is prescribed by the foregoing provisions of this Act for the presentation of an appeal allowed thereunder, such appeal subject to the provisions of Section 5 of the Travancore Limitation Act must be presented—

Limitation of time for appeal.

(*a*) where the appeal is against an order granting a licence or permission, within thirty days after the date of the publication of the order on the notice board of the municipal council, and

(*b*) in other cases, within thirty days after the date of the receipt of the order or proceeding against which the appeal is made.

Power to summon.

Power of persons conducting election and other enquiries.

345. All persons authorized by rule to conduct enquiries relating to elections and all inspecting or superintending officers holding any enquiries into matters falling within the scope of their duties shall have for the purposes of such enquiries the same powers in regard to the issue of summonses for the attendance of witnesses and the production of documents as are conferred upon revenue officers by the Revenue Summonses Act (V of 1063) and the provisions of that Act shall apply to summonses issued and to persons summoned by virtue of the powers conferred by this Section and all persons to whom summonses are issued by virtue of the said powers shall be bound to obey such summonses.

It shall also be competent to Our Government, by notification in Our Government Gazette, to confer on such persons and officers as aforesaid, all or any of the powers contained in the Code of Civil Procedure for the time being in force for securing the attendance of witnesses or the production of documents.

Summons to attend and give evidence or produce documents.

346. The executive authority may summon any person to attend before him and to give evidence or produce documents, as the case may be, in respect of any question relating to taxation, or inspection, or registration, or to the grant of any licence or permission under the provisions of this Act.

Notices, etc.

Form of notices and permissions.

347. All notices and permissions given, issued, or granted, as the case may be, under the provisions of this Act must be in writing.

Signature on documents.

348. (1) Every licence, permission, notice, bill, schedule, summons or other document which is required by this Act or by any rule, bye-law or regulation made under it to bear the signature of the chairman or executive authority or of any municipal officer, shall be deemed to be properly signed if it bears a facsimile of the signature of the chairman or executive authority or of such municipal officer, as the case may be, stamped thereon.

(2) Nothing in sub-section (1) shall be deemed to apply to a cheque drawn upon the municipal fund or to any deed of contract entered into by the municipal council.

Publication of notification.

349. Save as otherwise provided, every notification under this Act other than one issued by Our Government, shall be published in Our Government Gazette both in English and in a language of the district.

Publication of bye-laws, notices, orders, etc.

350. Every bye-law, order, notice or other document directed to be published under this Act shall, unless a different method be prescribed by this Act or by the council, be written in or translated into the language of the district and deposited at the municipal office, and a copy shall be posted up in a conspicuous position at such office and such other places as the council may direct. And a public proclamation shall be made throughout the municipality by beat of drum that such copy has been so posted up and that the original is open to inspection at the municipal office.

Notice of prohibition or setting apart of places.

351. Whenever the municipal council shall have set apart any place for any purpose authorised by this Act or shall have prohibited the doing of anything in any place, the executive authority shall forthwith cause to be put up a notice in English and in a language of the district at or near such place. Such notice shall specify the purpose for which such place has been set apart or the act prohibited in such place.

Method of serving documents.

352. (1) When any notice or other document is required by this Act or by any rule, bye-law, regulation or order made under it to be served on, or sent to any person, the service or sending thereof may be effected—

(*a*) by giving or tendering the said document to such person ; or

(*b*) if such person is not found, by leaving such document at his last known place of abode or business or by giving or tendering the same to some adult member or servant of his family ; or

(*c*) if such person does not reside in the municipality and his address elsewhere is known to the executive authority by sending the same to him by post or anchal registered ; or

(*d*) if none of the means aforesaid be available, by fixing the same in some conspicuous part of such place of abode or business.

(2) When the person is an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier in the document, and in the case of joint owners and occupiers it shall be sufficient to serve it on, or send it to, one of such owners or occupiers.

(3) Whenever in any bill, notice, form or other document served or sent under this Act a period is fixed within which any tax or other sum is to be paid or any work executed, or anything provided, such period shall, in the absence from this Act of any distinct provision to the contrary, be calculated from the date of such service or sending.

Relation of occupier to owner.

Recovery by occupier of sum leviable from owner.

353. If the occupier of any building or land makes on behalf of the owner thereof any payment for which, under this Act, the owner but not the occupier, is liable such occupier shall be entitled to recover the same from the owner and may deduct the same from the rent then or thereafter due by him to the owner.

Obstruction of owner by occupier.

354. (1) If the occupier of any building or land prevents the owner from carrying into effect in respect thereof any of the provisions of this Act, the executive authority may by an order require the said occupier to permit the owner, within eight days from the date of service of such order to execute all such works, as may be necessary.

(2) Such owner shall, for the period during which he is prevented as aforesaid, be exempt from any fine or penalty to which he might otherwise have become liable by reason of default in executing such works.

Execution of work by occupier in default of owner.

355. If the owner of any building or land fails to execute any work which he is required to execute under the provisions of this Act or of any rule, bye-law, regulation or order made under it, the occupier of such building or land may, with the approval of the executive authority, execute the said work, and shall be entitled to recover from the owner the reasonable expenses incurred in the execution thereof, and may deduct the amount thereof from the rent then or thereafter due by him to the owner.

Powers of entry and inspection of the executive authority.

Power of entry to inspect, survey or execute the work.

356. The executive authority or any person authorised by him in this behalf may enter into or on any building or land with or without assistants or workmen in order to make any inquiry, inspection, test, examination, survey, measurement or valuation or for the purpose of lawfully placing or removing pipes or meters,

or to execute any other work which is authorised by the provisions of this Act or of any rule, bye-law, regulation or order made under it, or which it is necessary for any of the purposes of this Act or in pursuance of any of the said provisions, to make or execute :

Provided that—

(*a*) except when it is in this Act otherwise expressly provided, no such entry shall be made between sunset and sunrise ;

(*b*) except when it is in this Act otherwise expressly provided, no dwelling house, and no part of public building used as a dwelling-place shall be so entered without the consent of the occupier thereof unless the said occupier has received at least six hours' previous notice of the intention to make such entry ;

(*c*) sufficient notice shall be given in every case even when any premises may otherwise be entered without notice, to enable inmates of any apartment appropriated to women to remove to some part of the premises where their privacy may be served ;

(*d*) due regard shall be paid, so far as may be compatible with the exigencies of the purpose of the entry, to the social and religious usage of the occupants of the premises.

Power of entry on lands adjacent to works.

357. (1) The executive authority or any person authorised by him in this behalf may with or without assistants or workmen enter on any land adjoining or within fifty yards of any work authorized by this Act or by any rule, bye-law, regulation or order made under it, for the purpose of depositing on such land any soil, gravel, stone or other materials or of obtaining access to such work or for any other purpose connected with the carrying on thereof.

(2) The executive authority or person authorized by him as aforesaid shall, before entering on any land under sub-section (1), give the owner or occupier three days' previous notice of the intention to make such entry and state the purpose thereof, and shall, if so required by the owner or occupier, fence off so much of the land as may be required for such purpose.

(3) The executive authority shall not be bound to make any payment, tender or deposit before entering on any land under sub-section (1), but as little damage as may be shall be done and the executive authority shall pay compensation to the owner or occupier of the land for such entry and for any temporary or permanent damage that may result therefrom.

(4) If such owner or occupier is dissatisfied with the amount of compensation paid to him by the executive authority he may appeal to the council.

358. The executive authority or any person authorised by him in this behalf may examine and test the weights and measures used in markets and shops in the municipality with a view to the prevention and punishment of offences relating to such weights and measures under Chapter XIII of the Travancore Penal Code.

Inspection and stamping of weights and measures.

Power to enforce licensing provisions, orders, etc.

359. If, under this Act, or any rule, bye-law or regulation made under it, the licence or permission of the council or executive authority or registration in the municipal office is necessary for the doing of any act, and if such act is done without such licence or permission or registration, or in a manner inconsistent with the terms of any such licence or permission, then—

Consequences of failure to obtain licences, etc., or of breach of the same.

(*a*) the executive authority may by notice require the person so doing such act to alter, remove, or, as far as practicable, restore to its original state the whole or any part of any property, movable or immovable, public or private, affected thereby, within a time to be specified in the notice ; and further,

(*b*) if no penalty has been specifically provided in this Act for so doing such act, the person so doing it shall be liable on conviction before a magistrate to a fine not exceeding fifty rupees for every such offence.

360. (1) Whenever by any notice, requisition, or order under this Act, or under any rule, bye-law or regulation made under it, any person is required to execute any work or to take any measures or do anything a reasonable time shall be named in such notice, requisition or order within which the work shall be executed, the measures taken, or the thing done.

Time for complying with order and power to enforce in default.

(2) If such notice, requisition or order is not complied with within the time so named the executive authority may cause such work to be executed or may take any measures or do anything which may, in his opinion, be necessary for giving due effect to the notice, requisition or order as aforesaid ; and further,

(3) if no penalty has been specifically provided in this Act for failure to comply with such notice, the said person shall be liable on conviction before a magistrate to a fine not exceeding fifty rupees for every such offence.

361. (1) The executive authority may, subject to the provisions of Section 150 recover any reasonable expenses incurred under Section 360 from the person or any one of the persons to whom the notice, requisition or order was addressed, and may, in executing work or taking measures under

Recovery of expenses from persons liable and limitation of liability of occupier.

Section 360, utilise any materials found on the property concerned or may sell them and apply the sale proceeds in or towards the payment of the expenses incurred.

(2) If the person to whom notice is given is the owner of the property in respect of which it is given, the executive authority may (whether any action or other proceeding has been brought or taken against such owner or not) require the person, if any, who occupies such property, or any part thereof, under the owner, to pay to the municipal council, instead of to the owner, the rent payable by him in respect of such property, as it falls due, up to the amount recoverable from the owner under sub-section (1) or to such smaller amount as the executive authority may think proper, and any amount so paid shall be deducted from the amount payable by the owner.

(3) For the purpose of deciding whether action should be taken under sub-section (2), the executive authority may require any occupier of property to furnish information as to the sum paid by him as rent on account of such property and as to the name and address of the person to whom it is payable; and such occupier shall be bound to furnish such information.

(4) The provisions of this Section shall not affect any contract made between any owner and occupier respecting the payment of any such expenses.

Relief to agent and to trustees.

362. (1) When any person by reason of his receiving the rent of immovable property as agent, trustee, guardian, manager or receiver or of his being agent, trustee, guardian, manager or receiver for the person who would receive the rent if the property were let to a tenant would, under this Act, be bound to discharge any obligation imposed by this Act or any rule, bye-law, regulation or order made under it on the proprietor of the property and for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or, but for his own improper act or default might have had in his hands, funds belonging to the proprietor sufficient for the purpose.

(2) The burden of proving the facts entitling a person to relief under this Section shall lie on him.

(3) When any person has claimed and established his right to relief under this Section, the executive authority may give him notice to apply to the discharge of such obligation as aforesaid the first moneys which shall come to his hands on behalf or for the use of the proprietor; and should he fail to comply with such notice he shall be deemed to be personally liable to discharge such obligation,

363. Instead of recovering any such expenses as aforesaid in the manner provided under Section 386 the executive authority may, if he thinks fit, take an agreement from the person liable for the payment thereof, to pay the same in instalments of such amounts and at such intervals as will secure the payment of the whole amount due, with interest thereon at the rate of six per centum per annum, within a period of not more than five years.

Power of executive authority to agree to receive payment of expenses in instalments.

Payment of compensation, etc., by and to the municipality.

364. In any case not otherwise expressly provided for in this Act the executive authority may, with the approval of the council, pay compensation to any person who sustains damage by the reason of the exercise by any municipal authority, officer or servant of any of the powers vested in them by this Act or any other law, or by any rule, bye-law or regulation made under it.

Power of municipality to pay compensation.

365. All costs, damages, penalties, compensation charges, fees (other than school fees), expenses, rents (not being rents for lands and buildings demised by the municipal council), contributions and other sums which under this Act or any other law or rules or bye-laws made thereunder, or under any contract in respect of water supply or drainage made in accordance with this Act, the rules or bye-laws are due by any person to the council, may, if there is no special provision in this Act for their recovery be demanded by bill as provided in the rules in Schedule II and recovered in the manner provided therein.

Recovery of sum due as taxes.

366. No distraint shall be made, no suit shall be instituted and no prosecution shall be commenced in respect of any sum due to the municipal council under this Act after the expiration of a period of three years from the date on which distraint might first have been made, a suit might first have been instituted, or prosecution might first have been commenced, as the case may be, in respect of such sum.

Limitation for recovery of dues.

367. If any property, movable or immovable, is sold under the provisions of this Act and if there is a surplus after the sum due to the municipal council and the costs have been deducted from the sale-proceeds, such surplus shall, if the owner of the property sold claims it within one year from the date of the sale, be paid to him by the executive authority, but if no such claim is preferred within such time, the said surplus shall be credited to the municipal fund, and no suit shall lie for the recovery of any sum so credited,

Procedure in dealing with surplus sale-proceeds.

368. No person shall be tried for any offence against the provisions of this Act, or of any rule, or bye-law made under it unless complaint is made by the police, or the executive authority or by a person expressly authorised in this behalf by the council or the executive authority within three months of the commission of the offence. But nothing herein shall affect the provisions of the Code of Criminal Procedure, in regard to the power of certain magistrates to take cognizance of offences upon information received or upon their own knowledge or suspicion:

Persons empowered to prosecute.

Provided that failure to take out a licence, obtain permission or secure registration under this Act shall, for the purpose of this Section, be deemed a continuing offence until the expiration of the period, if any, for which the licence, permission or registration is required and if no period is specified, complaint may be made at any time within twelve months from the commencement of the offence.

369. (1) In case any fine or costs imposed or assessed by a magistrate under this Act or under any rule or bye-law made under it, shall not be paid, the magistrate may order the offender to be imprisoned in default of payment subject to all the restrictions, limitations and conditions imposed in Sections 53 to 59 (both inclusive) of the Travancore Penal Code.

Imprisonment in default of payment and application of fines.

(2) Any fine, costs, tax or other sum imposed or assessed by a magistrate under this Act or under any rule or bye-law made under it shall be recoverable by such magistrate under the Code of Criminal Procedure, as if it were a fine and the same shall on recovery be paid to the municipal council to be applied to the purposes of this Act.

370. If, on account of any act or omission, any person has been convicted of an offence against the provisions of this Act or against any rule or bye-law made under it and by reason of such act or omission damage has been caused to any property owned by or vesting in the municipal council, the said person shall pay compensation for such damage, notwithstanding any punishment to which he may have been sentenced for the said offence. In the event of dispute, the amount of compensation payable by the said person shall be determined by the court before whom he was convicted of the said offence on application made to him for the purpose by the executive authority not later than three months from the date of conviction; and in default of payment of the amount of compensation so determined, it shall be recovered under a warrant from the said courts as if it were a fine inflicted by him on the person liable therefor.

Payment of compensation for damage to municipal property.

Legal Proceedings.

Institution of suits against municipal authorities, officers and servants.

371. (1) No suit for damages or compensation shall be instituted against the municipal council, any municipal authority, officer or servant, or any person acting under the direction of the same, in respect of any act done in pursuance of execution or intended execution of this Act or any rule, bye-law, regulation or order made under it or in respect of any alleged neglect or default in the execution of this Act, or any rule, bye-law, regulation, or order made under it until the expiration of one month after a notice has been delivered or left at the municipal office or at the place of abode of such officer, servant or person, stating the cause of action, the relief sought and the name and the place of abode of the intending plaintiff; and the plaint shall contain a statement that such notice has been so delivered or left.

(2) Every such suit shall be commenced within six months after the date on which the cause of action arose or in case of continuing injury or damage during such continuance or within six months after the ceasing thereof.

(3) If any person to whom any notice is given under sub-section (1) tenders amends to the plaintiff before the suit is instituted, and if the plaintiff does not recover in any such action more than the amount so tendered he shall not recover any costs incurred after such tender by the person to whom such notice has been given, and the defendant shall be entitled to costs as from the date of tender.

(4) Where the defendant in any such suit is the chairman, the executive authority, a municipal officer or servant, payment of the sum, or any part of any sum, payable by him in, or in consequence of, the suit whether in respect of costs, charges, expenses, compensation for damages or otherwise may be made, with the sanction of the council, from the municipal fund.

Provision respecting institution, etc., of civil and criminal actions and obtaining of legal advice.

372. The executive authority may—

(*a*) take, or withdraw from, proceedings against any person who commits—

(i) any offence against this Act, the rules, bye-laws or regulations ;

(ii) any offence which affects or is likely to affect any property or interest of the municipal council or the due administration of this Act;

(iii) any nuisance whatsoever;

(*b*) compound any offence against this Act, the rules, bye-laws or regulations which may by rules made by Our Government be declared compoundable ;

(c) with the approval of the council take, withdraw from or compromise proceedings for the recovery of expenses or compensation claimed to be due to the municipal council ;

(d) with the approval of the council withdraw or compromise any claim against any person in respect of a penalty payable under a contract entered into with such person by the executive authority ;

(e) with the approval of the council defend any suit or other legal proceedings brought against the municipal council or against any municipal authority, officer or servant in respect of anything done or omitted to be done in its or his official capacity ;

(f) with the approval of the council, compromise any claim, suit or legal proceedings brought against the council or against any municipal authority, officer or servant in respect of anything done or omitted to be done as aforesaid ;

(g) with the approval of the council, institute and prosecute any suit or withdraw from or compromise any suit or claim, which has been instituted or made in the name of the municipal council or of the executive authority ;

(h) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain, or as he may be desired by the council to obtain, for any of the purposes mentioned in the foregoing clauses of this Section or for securing the lawful exercise or discharge of any power or duty vesting in or imposed upon any municipal authority or municipal officer or servant.

Power of election authority to defend himself if sued.

373. The election authority may defend himself if sued or joined as a party in any proceeding relating to the preparation or publication of electoral rolls or to the conduct of elections, as the case may be, and the expenses incurred by the election authority in so doing shall be payable from the municipal fund.

Injunctions not to be granted in election proceedings.

374. Notwithstanding anything contained in the Code of Civil Procedure, 1100 or in any other law for the time being in force, no court shall grant any permanent or temporary injunction or make any interim order restraining any proceeding which is being or about to be taken under this Act for the preparation or publication of electoral rolls or for the conduct of any election.

Indemnity to the Government, Peishkar, municipal authorities, officers and agents.

375. No suit shall be maintainable against Our Government, the Peishkar or any municipal chairman, executive authority, officer or servant or any person acting under the direction of any municipal chairman or executive authority, officer or servant, or of a magistrate in respect of anything in good faith done under this Act or any rule, bye-law, regulation or order made under it.

376. (1) The chairman, every councillor and the executive authority shall be liable for the loss, waste or misapplication of any money or other property owned by or vested in the municipal council if such loss, waste or misapplication is a direct consequence of his neglect or misconduct and a suit for compensation may be instituted against him by the council with the previous sanction of Our Government.

Liability of chairman, executive authority and members for loss, waste, or misapplication.

(2) Every such suit shall be commenced within three years after the date on which the cause of action arose.

377. When the chairman, any councillor or the executive authority is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no court shall take cognizance of such offence except with the previous sanction of Our Government.

Sanction for prosecution of chairman, executive authority or councillor.

378. (1) No assessment or demand made, and no charge imposed, under the authority of this Act shall be impeached or affected by reason of any clerical error or by reason of any mistake (*a*) in respect of the name, residence, place of business or occupation of any person, or (*b*) in the description of any property or thing, or (*c*) in respect of the amount assessed, demanded or charged: provided that the provisions of this Act have been, in substance and effect, complied with. And no proceedings under this Act shall merely for defect in form, be quashed or set aside by any Court of Justice.

Assessments, etc., not to be impeached.

(2) No suit shall be brought in any court to recover any sum of money collected under the authority of this Act or to recover damages on account of any assessment, or collection of money made under the said authority: provided that the provisions of this Act have been, in effect, complied with.

(3) No distraint or sale under this Act shall be deemed unlawful, nor shall any person making the same be deemed as trespasser, on account of any error, defect or want of form in the bill, notice, schedule, form, summons, notice of demand, warrant of distraint, inventory, or other proceedings thereto if the provisions of this Act, the rules and bye-laws have in substance and effect been complied with:

Provided that every person aggrieved by any irregularity may recover satisfaction for any special damages sustained by him.

Police.

Duties of police officer.

379. (1) It shall be the duty of every police officer —

(a) to communicate without delay to the proper municipal officer any information which he receives of the design to commit or of the commission of any offence under this Act or any rule, bye-law or regulation made under it;

(b) to assist the chairman, the executive authority or any municipal officer or servant reasonably demanding his aid for the lawful exercise of any power vesting in the chairman or the executive authority or in such municipal officer or servant under this Act or any such rule, bye-law or regulation; and

(c) to assist any person employed in the collection of tolls in the case of resistance to the lawful authority of such person, and for all such purposes he shall have the same power which he has in the exercise of his ordinary police duties.

(2) Any police officer who omits or refuses to perform any duty imposed on him by this Act shall be deemed to have committed an offence under Section 45 clause (d) of the Travancore Police Act of 1095.

Power of police officer to arrest persons.

380. (1) If any police officer sees any person committing an offence against any of the provisions of this Act or of any rule or bye-law made under it, he shall, if the name and address of such person are unknown to him, and if the said person on demand declines to give his name and address or gives a name and address which such officer has reason to believe to be false, arrest such person.

(2) No person arrested under sub-section (1) shall be detained in custody—

(a) after his true name and address are ascertained, or

(b) without the order of a magistrate for any longer time, not exceeding twenty-four hours from the hour of arrest, than is necessary for bringing him before a magistrate.

Exercise of powers of police officer by municipal servant.

381. Our Government may empower any municipal servant or any class of municipal servants to exercise the powers of a police officer for the purposes of this Act.

Miscellaneous.

Application of term 'public servant' to municipal officers, agents and sub-agents.

382. Every municipal officer or servant, every contractor or agent for the collection of any municipal tax, toll, fee or other sum due to the municipal council and every person employed by any such contractor or agent for the collection of such tax, toll, fee or sum shall be deemed to be a public servant within the meaning of Section 15 of the Travancore Penal Code.

383. No person shall obstruct or molest the council, the chairman, any councillor, the executive authority or any person employed by the municipal council or any person with whom a contract has been entered into on behalf of the council, in the performance of their duty or of anything which they are empowered or required to do, by virtue or in consequence of this Act or of any bye-law, rule, regulation or order made under it.

Prohibition against obstruction of municipal authorities, servants and contractors.

384. No person shall remove any mark set up for the purpose of indicating any level or direction incidental to the execution of any work authorised by this Act or by any bye-law, rule or order made under it.

Prohibition against removal of mark.

385. No person shall, without authority in that behalf, remove, destroy, deface, or otherwise obliterate, any notice exhibited by or under the orders of the council or the executive authority.

Prohibition against removal or obliteration of notice

386. No person shall, without authority in that behalf, remove earth, sand or other material or deposit any matter or make any encroachment from, in or on any land vested in the municipal council, or river, estuary, canal, backwater or water-course (not being private property) or in any way obstruct the same.

Prohibition against unauthorised dealings with public place of materials.

Government's power of delegation.

387. Our Government may by notification authorize any person to exercise any one or more of the powers vested in them by this Act except the powers mentioned in Chapters II and III, the power to determine the amount of contribution under Section 165, the power to make rules under sub-section (2) of Section 76, and Sections 323 and 325 and the power to sanction prosecutions under Section 377 and may in like manner withdraw such authority.

Delegation of powers by Our Government.

Transitional and transitory provisions.

388. All property, all rights of whatever kinds used, enjoyed, or possessed by, and all interests of whatever kind owned by or vested in or held in trust by, or for, a municipal council, as constituted under the Travancore Municipal Act (V of 1095), as well as all liabilities legally subsisting against the said council shall pass to the council as constituted under this Act.

Passing of property and rights to municipality as reconstituted.

389. The power to make or approve rules, bye-laws and regulations may be exercised at any time after the passing of this Act and any election or appointment of chairman, or councillors under this Act, or under the rules made under this Act may be held or made at any time after such passing but no such election or appointment shall take effect until the commencement of the Act.

Making rules etc., before the commencement of the Act.

390. In their application to the term of office and the election and appointment of councillors and the chairman elected or appointed for the first time after the commencement of this Act, the provisions of this Act shall be read subject to the following modifications :—

Continuance in office of present chairman and councillors.

(*a*) The term of office of the president and of the councillor holding office under the Travancore Municipal Act (V of 1095), shall expire on such date or dates after the commencement of this Act as Our Government shall determine ; and Our Government shall make appointments and cause arrangements for election to be made under this Act so that the newly elected and appointed councillors may come into office on the date fixed for the retirement of the former councillors and the chairman elected or appointed under this Act on the date fixed for the retirement of the chairman elected or appointed or ex-officio under the Travancore Municipal Act (V of 1095, and until they so come into office the president and the councillors appointed or elected or ex-officio under the Travancore Municipal Act (V of 1095), shall have all the powers and be subject to all the duties respectively of the chairman and councillors under this Act ; and

(*b*) on or as soon as may be after the constitution of the council under this Act, a meeting shall be held on a day and at a time fixed by the Peishkar and if not held on that day, shall be held on some subsequent day fixed by the Peishkar for the election of a chairman by those councils on whom this privilege has been conferred by Our Government.

391. All arrears of taxes or other payments by way of composition for a tax or due for expenses or compensation or otherwise due to a municipal council at the time of this Act comes into force may be recovered as though they had accrued under this Act.

Procedure for recovery of arrears of taxes, etc.

392. (1) When a dispute exists between a council and one or more than one other local authority in regard to any matters arising under the provisions of this or any other Act and Our Government are of opinion that the local authorities concerned are unable to settle it amicably among themselves, Our Government may take cognizance of the dispute ; and

Adjudication of disputes between local authorities.

(*a*) decide it themselves, or

(*b*) refer it for any enquiry and report to an arbitrator or a board of arbitrators, or to a joint committee constituted under Section 29 for the purpose.

(2) The report referred to in clause (*b*) of sub-section (1) shall be submitted to Our Government who shall decide the dispute in such manner as they deem fit.

(3) The decision of Our Government under clause (*a*) of sub-section (1) or under sub-section (2), as the case may be, shall be final and binding on each of the disputing local authorities.

393. (1) Any reference to the chairman contained in any enactment in force in Travancore or in any notification, order, scheme, rule, form or bye-law made under any such enactment and in force in the State shall where such reference relates to the executive functions of the chairman be construed as a reference to the executive authority.

References to chairman in other enactment and notifications, etc., issued thereunder.

(2) If any question arises as to whether any such reference relates to the executive functions of the chairman or not, the decision of Our Government shall be final.

SCHEDULE I.

Rules Regarding Proceedings of the Council.

(See Section 28.)

Mode of Transacting Business.

1. The municipal council shall provide an office and the council shall meet therein for the transaction of business at least once in every month, upon such days and at such times as it may arrange and also at other times as often as a meeting shall be called by the chairman:

Provided that no meeting shall be held on a public holiday.

Explanation.—The expression 'public holiday' includes Sundays and any other day declared by Our Government, by notification in Our Government Gazette, to be a public holiday.

2. (1) No meeting shall be held unless notice of the day and time when the meeting is to be held and of the business to be transacted thereat has been given at least three clear days before the day of the meeting.

(2) In cases of urgency the chairman may convene a meeting on giving shorter notice than that specified in sub-rule (1).

3. (1) The chairman shall, on the requisition in writing of not less than one-third of the members then on the council, convene a meeting of the council, provided that the requisition specifies the day (not being a public holiday as defined in the Explanation to rule 1) when and the purpose for which the meeting is to be held. The requisition shall be delivered at the municipal office during office hours to the chairman, secretary, manager or any other person who may then be in charge of the office at least ten clear days before the day of the meeting.

(2) If the chairman fails within forty-eight hours from the delivery of such requisition to call a meeting on the day specified therein, or within three days thereafter, the meeting may be called by the members who signed the requisition on giving the notice provided for in sub-rule (1) of rule 2 to the other members of the council.

4. All meetings of the council shall be open to the public provided that the presiding member may and at the request of the council shall in any particular case, for reasons to be recorded in the minute book kept under rule 9, direct that the public generally, or any particular person, shall withdraw.

5. All questions which may come before the council at any meeting shall be decided by a majority of the members present and voting at the meeting and, in every case of equality of votes, the presiding member shall have and exercise a second or casting vote.

6. No business shall be transacted at a meeting unless there be present at least six members or, if the number of members then on the council exceeds sixteen, at least one-third of that number.

7. If within half an hour after the time appointed for a meeting a quorum is not present, the meeting shall stand adjourned, unless all the members present agree to wait longer.

8. No resolution of the council shall be modified or cancelled within three months after the passing thereof except at a meeting specially convened in that behalf and by a resolution of the council supported by not less than one-half of the sanctioned number of members.

9. Minutes of the proceedings at each meeting of the council shall be drawn up and entered in a book to be kept for that purpose, and shall be signed by the presiding member or in his absence by some one of the members present thereat: and the said minutes shall, at all reasonable times and without charge, be open at the municipal office to the inspection of any person who pays any tax under this Act in the municipality.

10. Within seven days of the date of the meeting, a copy of the minutes of the proceedings at such meeting shall be forwarded by the chairman to the Chief Secretary to Government for publication at the cost of the municipal fund in the Government Gazette in English and in the language of the district: provided that the chairman shall immediately forward to the Chief Secretary any minute of dissent that may be forwarded to him within forty-eight hours of the meeting by any councillor.

11. The executive authority shall have the custody of the proceedings and records of the council and may grant copies of any such proceedings and records on payment of such fees as the council may, by general or special order, determine. Copies shall be certified by the executive authority, and copies so certified may be used to prove the records of the council.

12. The proceedings of every committee appointed by the council shall be recorded in writing and submitted to the council.

SCHEDULE II.

TAXATION AND FINANCE RULES.

PART I—TAXATION RULES.

(See Section 133.)

Definition of Tax.

1. In these rules 'tax' includes payment due by way of composition for a tax.

Provisions common to taxes in general.

2. (1) The executive authority shall prepare and keep assessment books in such form as may be prescribed showing the persons and property liable to taxation under this Act.

(2) The assessment books and where detailed particulars relating to any assessment are kept in separate records, the portion thereof containing such particulars shall be open at all reasonable times and without charge to inspection by any person who pays any tax to the municipality or his authorised agent and such person or agent shall be entitled to take extracts, free of charge, from the said books and records.

(3) The account books of the council shall be open without charge to inspection by any person who pays any tax to the municipality or his authorised agent on a day or days in each month to be fixed by the council.

3. The executive authority shall, save as otherwise provided in this Act, determine the tax to which each property or person is liable :

Provided that in the case of taxes payable by the executive authority the original assessment shall be made by the Peishkar or if the Peishkar is also the executive authority, by the council.

4. (1) If at any time it appears to the council that any person or property has been inadequately assessed or inadvertently or improperly omitted from the assessment books relating to any tax, or that there is any clerical or arithmetical error in the said books, it may direct the executive authority to amend the said books in such manner as it deems just or necessary:

Provided that no such direction shall be given where it involves an increase in the assessment, unless the person concerned shall have been afforded a reasonable opportunity to show cause to the council why the assessment books should not be amended as proposed.

(2) Such amendment shall be deemed to have taken effect on the earliest date, either in the current half-year or in the two half-years immediately preceding it, on which the circumstances justifying the amendment existed.

5. (1) The executive authority shall give to every person making payment of a tax a receipt therefor signed by him or by some person duly authorised by him in that behalf.

(2) Such receipt shall specify—

(*a*) the date of the grant thereof;
(*b*) the name of the person to whom it is granted;
(*c*) the tax in respect of which payment has been made;
(*d*) the period for which payment has been made; and
(*e*) the amount paid.

Assessment of the property tax.

6. The value of any land or building for purposes of the property tax shall be determined by the executive authority:

Provided that the value of any land or building the tax for which is payable by the executive authority shall be determined by the Peishkar or, if the Peishkar is also the executive authority, by the council.

7. The executive authority shall enter the annual or capital value of all lands and buildings determined by him and the tax payable thereon in assessment books to be kept for the purpose at the municipal office. Such books shall record the following particulars in so far as they can be ascertained, with regard to each assessable item:

(*a*) the name of the owner;
(*b*) the name of the occupier;
(*c*) the designation, if any, of the item;
(*d*) the name of the ward and street, if any, in which it is situated and any survey or other number which it bears;
(*e*) the annual or capital value, as the case may be; and
(*f*) the amount of the tax payable.

8. (1) The assessment books shall be completely revised by the executive authority once in every five years.

(2) The executive authority may amend the assessment books at any time between one general revision and another by inserting therein or removing therefrom any property or by altering the valuation of any property or the amount of tax. Such amendment shall be deemed to have taken effect on the first day of the half-year in which it is made:

Provided that when the amendment is made in any half-year after the demand notice for that half-year has been issued, it shall have effect only from the succeeding half-year.

9. When assessment books have been prepared for the first time and whenever a general revision of such books has been completed, the executive authority shall give public notice stating that revision petitions will be considered if they reach the municipal office within a period of sixty days from the date of such notice in the case of the Government or a company, and of thirty days from the said date in other cases. The notice shall be affixed to the notice board of the municipal office and on the same day be published in the municipality by beat of drum.

10. In every case in which, between one general revision and another, the executive authority assesses any property for the first time or increases the assessment on any property otherwise than in consequence of a general enhancement of the rate at which the property tax is leviable, the executive authority shall intimate by a special notice to the owner or occupier of such property that a petition for revising the assessment will be considered if it reaches the municipal office within sixty days from the date of service of such notice in the case of the Government or a company, and within thirty days from the said date in other cases.

11. Any person may, at any time, not being less than thirty days before the end of a half-year, move the executive authority by revision petition to reduce the tax to which he is liable for the forthcoming half-year on the ground that the annual or capital value of the property in respect of which the tax is imposed has decreased since the assessment of the property was last made or revised.

12. No petition under rule 9, 10 or 11 shall be disposed of unless the petitioner has been given a reasonable opportunity to appear either in person or by authorised agent and to represent his case.

13. Immediately after the disposal of a revision petition the executive authority shall inform the petitioner or his authorised agent, either orally or in writing, of the orders passed thereon, shall direct him to pay the amount fixed on revision within fifteen days after the date of receipt of such intimation or, if the amount is not due, within fifteen days from the date on which it becomes due, and shall, if necessary, cause the assessment books to be corrected.

14. (1) On the establishment of a municipality assessments shall have effect from the date specified in the notification under Section 79.

(2) A general revision shall be deemed to have taken effect on the first day of the half-year following that in which the notice under rule 9 is published.

(3) Any corrections in the assessment books made by the executive authority under rule 13 or 27 shall be deemed to have effect on the first day of the half-year to which the assessment which was sought to be revised or which was appealed against relates.

Explanation—The levy of a new class of property tax or an enhancement in the rate at which any class of property tax is leviable is no amendment or revision within the meaning of this rule, and shall have effect from the date fixed for the levy or enhancement.

15. The first payment of tax shall, save as provided in rule 13, be made within thirty days of the date or day specified in rule 14.

Assessment of the profession-tax.

16. (1) The classes into which companies and persons shall, for the purposes of assessment to the profession-tax, be divided and the maximum half-year tax leviable on each class shall be as follows:

Class		Half-yearly income.			Maximum half-yearly tax.	
		Rs.		Rs.	Rs.	Chs.
I	More than	21,000	...	...	275	0
II	do.	18,000	But not more than	21,000	225	0
III	do.	12,000	do.	18,000	150	0
IV	do.	9,000	do.	12,000	85	0
V	do.	6,000	do.	9,000	55	0
VI	do.	4,200	do.	6,000	28	0
VII	do.	3,000	do.	4,200	20	0
VIII	do.	1,800	do.	3,000	10	0
IX	do.	1,200	do.	1,800	6	0
X	do.	600	do.	1,200	3	0
XI	do.	300	do.	600	1	14
XII	do.	150	do.	300	0	14

(2) The council shall determine the tax leviable on each class subject to the maximum specified in sub-rule (1):

Provided that the proportion which the tax on any class bears to the minimum income of that class shall in no case be smaller than the proportion which the tax on any lower class bears to the minimum income of such lower class.

(3) The council may exempt any one or more of the classes in sub-rule (1) from liability to profession-tax, but no class shall be exempted from liability when any lower class is liable to tax.

17. A company or person shall be deemed to have transacted business and a person shall be deemed to have exercised a profession, art, or calling or held an appointment within a municipality if such company or person has an office or place of employment within such municipality.

18. (1) Where a company or person transacts business in any half-year exclusively in the area of a single municipality, the income of such company or person from the transaction of such business shall, for the purpose of levying profession-tax under this Act during the half-year, be deemed to be—

(a) where income-tax is assessed on such company or person under the Travancore Income-tax Act for the year, comprising the half-year, one half of the amount at which the profits and gains of such business are computed under Section 8 of the Travancore Income-tax Act for the purpose of assessing the income-tax; and

(*b*) where the amount of the said profits and gains is not ascertainable or where such company or person is not assessed to income-tax such percentage as Our Government may prescribe, of the turnover of the business transacted in the area of the municipality during the half-year or where this is also unascertainable during the corresponding half-year of the previous year.

(2) Where a company or person transacts business partly in the area of a municipality and partly outside such area, the income of such company or person from the transaction of business in the area of the municipality shall, for the purpose of levying profession-tax under this Act, be deemed to be the percentage prescribed under clause (*b*) of sub-rule (1) of the turnover of the business transacted in such area during the half-year or the corresponding half-year of the previous year, as the case may be.

(3) For the purpose of clause (*b*) of sub-rule (1) and sub-rule (2) the turnover of business in any municipality means the aggregate money value of the goods produced, manufactured, purchased or sold or of any other business transacted in such municipality.

Explanation—In determining the turnover of business under this sub-rule—

(*a*) where the delivery of any goods on account of any purchase made by any company or person and the delivery on account of the sale thereof by the same company or person are both effected in Travancore, only the latter transaction shall be taken into account;

(*b*) where the delivery of any goods on account of any purchase made by any company or person is effected in any place outside Travancore and the delivery on account of the sale thereof by the same company or person is effected in any place in Travancore the latter transaction shall be taken into account; and

(*c*) where the delivery of any goods on account of any purchase made by any company or person is effected in any place in Travancore and the delivery on account of the sale thereof by the same company or person is effected in any place outside Travancore the former transaction shall be taken into account.

19. (1) If, in the opinion of the executive authority profession-tax is due from any company or person for any half-year, he shall serve a notice on such company or person either in that half-year or in the succeeding half-year requiring the company or person to furnish within such period, not being less than thirty days as may be specified in the notice, a return in the prescribed form showing the income on the basis of which, according to such company or person, it or he is liable to be assessed to profession-tax for the half-year in question. Thereupon it shall be open to such company or person to submit a return showing the income derived by it or him during the half-year for which profession-tax is claimed or for the corresponding half-year of the previous year and produce any evidence on which the company or person may rely in support of the return made.

(2) If a return is made as required under sub-rule (1) and the executive authority is satisfied that it is correct and complete he shall levy the profession-tax from such company or person on the basis of such return.

Explanation—In cases not falling under clause (*b*) of sub-rule (1) or under sub-rule (2) of rule 18, if the company or person produces the notice of demand of income-tax served on it or him under Section 20 of the Travancore Income-tax Act for the year comprising the half-year in question, the executive authority shall be bound to take one-half of the income mentioned in such notice of demand as the income derived from the sources on which profession-tax is leviable under this Act as the income on the said sources for the purposes of levying profession-tax.

(3) If no return is made as required under sub-rule (1) or if the executive authority is satisfied that any return so made is incorrect or incomplete, the executive authority shall assign to the company or person the class in the scale appropriate to the half-yearly income of such company or person as estimated by him.

(4) The executive authority may, when classifying any company or person under sub-rule (3), do so on general considerations with reference to the nature and reputed value of the business transacted, the size and rental of residential and business premises, the quantity and number of articles dealt with, the number of persons employed and the income-tax paid to Government.

(5) The executive authority shall not be entitled to call for the accounts of any company or person.

Maximum rates of tax on carriages and animals.

(See Section 98.)

20. (*a*) The tax on carriages and animals shall be levied at half-yearly rates not exceeding those shown in the following table:—

	Half-yearly instalment. Rs.	ch.
For every motor or steam vehicle with metal tyres constructed to carry 2 tons or more ...	100	0
Additional charge for each trailer ...	50	0
For every motor or steam vehicle with cushion or solid rubber tyres constructed to carry 2 tons or more ...	75	0
For every motor or steam vehicle constructed to carry 1 ton or more but less than 2 tons ...	60	0
For every motor or steam vehicle constructed to carry less than 1 ton ...	50	0
Additional charge for each trailer with cushion or solid rubber tyres ...	30	0
Additional charge for each trailer with pneumatic tyres ...	25	0

	Half-yearly instalment. Rs.	ch.
For every motor or steam vehicle constructed to carry 1 ton or less than 2 tons ...	50	0
For every motor bus or charabanc constructed to carry 15 or more persons ...	75	0
For every motor bus or charabanc constructed to carry less than 15 persons but more than 7 persons ...	50	0
For every four-wheeled motor vehicle constructed to carry not more than 7 persons but more than 3 persons and plying for hire ...	25	0
For every four-wheeled motor vehicle constructed to carry not more than 7 persons but more than 3 persons and not plying for hire ...	15	0
For every four-wheeled motor vehicle constructed to carry 3 or less persons ...	12	0
For every motor tricycle and every motor bicycle with or without side-car ...	10	0
For every four-wheeled vehicle constructed to be drawn by one or more animals ...	5	0
For every two-wheeled vehicle constructed to be drawn by one or more animals ..	2	0
For every other bicycle or tricycle ...	2	0
For every other carriage not being a child's perambulator or go-cart ...	2	0
For every elephant ...	6	0
For every motor boat or steam launch plying for hire and carrying more than 6 passengers ...	30	0
For every steam or motor tug ...	50	0
For every barge or other vessel attached or attachable to a steam or motor tug ...	25	0
For every other motor boat or steam launch ...	15	0
For every cabin boat ...	2	14
For every horse, mule or pony ...	2	0
For every bull, bullock, male buffalo, ass or dog ...	1	0

(*b*) If, within the half-year, a person replaces any carriage or animal by another carriage or animal falling under the same class in the table given in clause (*a*), he shall not be liable to more than one payment of tax and the amount of such payment shall be regulated by the aggregate number of days for which he has kept such carriage or animal during the half-year.

21. (*a*) Tolls shall be levied at the rates shown in the following table :—

	Rs.	ch.	c.
On every traction engine ...	3	0	0
On every motor or steam vehicle constructed to carry one ton or more ...	2	0	0

	Rs.	ch.	c.
On every trailor attached thereto ...	1	0	0
On every motor bus constructed to carry 15 or more passengers ...	2	0	0
On every motor vehicle constructed to carry more than 7 but less than 15 passengers ...	1	0	0
On every other four-wheeled motor vehicle ...	0	14	0
On every motor tricycle and every motor bicycle with or without side-car ...	0	7	0
On every motor boat or steam launch plying for hire or carrying more than 6 passengers ..	2	0	0
On every other motor boat or steam launch ...	0	14	0
On every cabin boat ...	0	7	0
On every bicycle or tricycle ...	0	3	8
On every other carriage or boat ...	0	3	0
On every horse, buffalo, bull, bullock or ass ...	0	2	0
On every vallum ...	0	2	0
On every elephant ...	0	14	0
On every camel ...	0	7	0

(*b*) Payment of a toll in respect of any vehicle covers the animal engaged in drawing it.

22. Not more than a single payment of toll may be demanded in respect of any vehicle or animal during any one period of twenty-four hours counted from midnight to midnight; and on such payment being made a receipt, in such form as the council may prescribe, shall be granted by the toll-keeper.

Appeals.

23. An appeal shall lie to the council in respect of the assessment and imposition of the following taxes and of no others:

(*a*) assessments made by Peishkar under rule 3;

(*b*) the proceedings of the executive authority under rule 19;

(*c*) the order of the executive authority under rule 13 upon a revision petition; and

(*d*) the imposition by the executive authority of any tax on any carriage, animal, or cart.

24. The council may, of its own motion, or otherwise, cancel, or modify any order passed by the executive authority reducing or remitting a tax.

25. An appeal shall be made in writing and shall set forth concisely and under distinct heads the grounds of objection to the decision or other proceedings appealed against.

26. No appeal to the council shall be heard —

(*a*) unless it be presented at the municipal office

(i) within fifteen days from the service of the notice referred to in Sections 94 and 102, or

(ii) within fifteen days from the date upon which the tax becomes payable under Section 85 or 105 or under rule 15;

Provided that the council may admit an appeal within fifteen days after the time prescribed in this rule, if cause be shown to its satisfaction for not preferring it within the prescribed time; and

(*b*) unless (except when the executive authority otherwise directs the ground of poverty) the tax in respect of which the appeal is presented has been deposited at the municipal office within the period specified in sub-clause (i) or (ii) of clause (*a*), as the case may be, or where an appeal is presented for admission under the proviso to the said clause on or before the day upon which the appeal is presented.

27. The assessment books maintained under sub-rule (1) of rule (2) shall be corrected in accordance with any orders passed by the council under rule 24 or on appeal : in the event of the amount of any tax being reduced or remitted by the council, the executive authority shall grant a refund accordingly.

28. The assessment or demand of any tax, when no appeal is made, as hereinbefore provided, and when such an appeal is made the adjudication of the council thereon shall be final :

Provided that where any assessment or demand is not in accordance with the assessment books nothing in this rule shall be deemed to prohibit a fresh assessment or demand of the tax being made in accordance herewith.

29. (1) The powers of the council under rules 4, 23 and 24 shall, during any period in respect of which Our Government may, by notification, so direct, be exercised by a special officer appointed by them. And thereupon the council shall cease to exercise the said powers during the said period and rules 4 and 23 to 28 shall have effect as if for the word 'council' wherever it occurs in those rules and for the words 'executive authority' in clause (*b*) of rule 26, the words 'special officer appointed by Our Government in this behalf' were substituted.

(2) A special officer appointed under sub-rule (1) shall have all such powers of the council and of the executive authority as are necessary for the purpose of exercising his powers under the said sub-rule and he shall be entitled to the same protection as the council or executive authority, as the case may be, is entitled.

(3) The special officer shall be paid out of the municipal fund such salary and allowances as Our Government may, in consultation with the council fix. If a Government servant is appointed special officer, the council shall also pay Our Government such contribution towards the pensions and leave allowances of such servant as may be payable under the regulations in force for the time being of the branch of Government service to which he belongs.

Collection of taxes.

(See section 133.)

30. (1) Where any tax not being a tax in respect of which a notice has to be served under Section 94 or 102 or in respect of which

a direction has to be given under rule 13, is due from any person, the executive authority shall serve upon such person a bill for the sum due before he proceeds to enforce the provisions of rule 31.

(2) A notice under Section 94 or 102 and a bill under sub-rule (1) shall be signed by the executive authority and shall contain—

(*a*) a statement of the period and a description of the occupation, property or thing for which the tax is charged; and

(*b*) a notice of the liability incurred in default of payment.

(3) Where a notice, bill or direction referred to in sub-rule (1) has not been served or given either in the half-year in which the tax became due or in the succeeding half-year, the tax for the half-year first mentioned in this sub-rule shall not be demanded:

Provided that where the assessment books have been amended under rule 4, the notice, bill or direction, as the case may be, given either in the half-year in which the amendment was made or in the succeeding half-year.

31. (1) If the amount due on account of any tax is not paid within fifteen days from the service of the notice, or bill or the giving of the direction referred to in Sections 94 and 102 and rules 13 and 30 and if the person from whom the tax is due has not shown cause to the satisfaction of the executive authority why it should not be paid, the executive authority may recover by distraint under his warrant and sale of the movable property of the defaulter, the amount due on account of the tax together with the warrant fee and the distraint feeand with such further sum as will satisfy the probable charges that will be incurred in connection with the detention and sale of the property so distrained:

Provided always that movable property described in the proviso to Section 52 of the Code of Civil Procedure, 1100, shall not be liable to distraint.

(2) If for any reason the distraint or a sufficient distraint of the defaulter's property is impracticable, the executive authority may prosecute the defaulter before a Magistrate.

(3) Nothing herein contained shall preclude the council from suing in a civil court for any tax due to it under this Act.

(4) The warrant under sub-rule (1) shall be in the form contained in Appendix A to these rules or in some similar form and for each such warrant a fee of two chuckrums shall be levied.

(5) Under a special order in writing of the executive authority any officer charged with execution of a warrant of distress may, between sunrise and sunset, break open any outer or inner door or window of building in order to make the distress, if he has reasonable ground for believing that such building contains property which is liable to seizure, and if, after notifying his authority and purpose and duly demanding admittance, he cannot otherwise obtain admittance:

Provided that such officer shall not enter or break open the door of any apartment appropriated to women, until he has given three hours' notice of his intention and has given such women an opportunity to withdraw.

32. (1) The officer charged with the execution of a warrant, shall, before making the distraint, demand payment of the tax due and the warrant fee. If the tax and fee are paid, no distraint shall be made, but if the tax or fee is not paid, the officer shall—

(a) seize such movable property of the defaulter as he may think necessary;

(b) make an inventory of the property seized; and

(c) give to the person in possession of the property seized at the time of the seizure a copy of the inventory and the notice of sale in the form in Appendix B to these rules or in some similar form:

Provided that a period of seven days shall be allowed for paying the amounts due and redeeming the property seized.

(2) The distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the tax due by the defaulter, together with all expenses incidental to the warrant, distraint, detention and sale.

33. (1) If the amount due by the defaulter on account of the tax, the warrant fee and distraint fee and the expenses incidental to the detention of the property are not paid within the period of seven days mentioned in the notice given under rule 32 and if the distraint warrant is not suspended by the executive authority, the property seized or a sufficient portion thereof shall be sold by public auction under the orders of the executive authority who shall apply the proceeds of the sale to the payment of the amount due on account of the tax, the warrant fee and the distraint fee and expenses incidental to the detention and sale of the property, and shall return to the person in whose possession the property was at the time of seizure any property or sum which may remain after the sale and the application of the proceeds thereof as aforesaid. If the proceeds of the sale are insufficient for the payment of the amount due on account of the tax, the warrant fee and distraint fee and the expenses incidental to the detention and sale of the property the executive authority may again proceed under rule 31 in respect of the sum remaining unpaid.

(2) When the property seized is subject to speedy and natural decay, the executive authority may sell it at any time before the expiry of the said period of seven days, unless the amount due is sooner paid.

(3) The executive authority shall consider any objections to the distraint of any property which are made within the said period of seven days and may postpone the sale pending investigation thereof. If the executive authority decides that the property attached was not liable to distraint, he shall return it, or if it has already been sold, the proceeds of the sale to the person appearing to be entitled thereto and may again proceed under rule 31 and all fees and expenses connected with the first distraint and sale shall be recoverable from the defaulter if it shall appear to the executive authority that he wilfully permitted the distraint of the property when to his knowledge it was not liable to distraint.

34. (*a*) Fees shall be levied on distraints under this Act with reference to the value of the property distrained and according to the rates specified in Appendix C to these rules.

(*b*) Fees levied under this are not intended to cover the cost of maintaining any livestock distrained.

35. The property of a person in default under sub-rule (1) of rule 31 may be distrained wherever it may be found within the municipality.

36. If the tax due on account of any building or land remains unpaid in whole or in part at the end of the period specified in sub-rule (1) of rule 31 the executive authority may if the said tax has not remained unpaid for more than twelve months, require the occupier for the time being of such building or land to pay the amount within a specified period not being less than fifteen days, if the occupier fails to comply with such requisition, the executive authority may distrain and sell any movable property found on the building or land, and the provisions of the foregoing rules shall, *mutatis mutandis* apply to all distraints and sales effected under this rule : provided that no occupier shall be liable to prosecution or to a civil suit in respect of any sum recoverable from him under this rule, unless he has wilfully prevented distraint or a sufficient distraint.

37. If any tax due from any person remains unpaid in whole or in part at the end of the period specified in sub-rule (1) of rule 31 and if such person has left Travancore or cannot be found, the said tax or such part thereof as remains unpaid together with all sums payable in connection therewith shall be recoverable as if it were an arrear of land revenue.

38. (1) Every person who is prosecuted under sub-rule (2) of rule 31 shall be liable, on proof to the satisfaction of the magistrate that he wilfully omitted to pay the amount due by him or that he wilfully prevented distraint or a sufficient distraint to pay a fine not exceeding twice the amount which may be due by him on account of—

(*a*) the tax and the warrant fee, if any, and

(*b*) if distraint has taken place, the distraint fee and the expenses incidental to the detention and sale, if any, of the property distrained.

(2) Whenever any person is convicted of an offence under sub-rule (1), the magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the municipal council—

the amounts, if any, due under the heads specified in clause (*a*) and (*b*) of sub-rule (1); and may in his discretion also recover summarily and pay to the council such amount, if any, as he may fix as the costs of the prosecution.

39. Neither the executive authority nor any municipal officer or servant shall directly or indirectly purchase any property at any sale of distrained property held under the foregoing rules.

Part II—Finance Rules.

[See section 133.]

Authorised objects of expenditure.

40. The purposes to which the municipal fund may be applied include all objects expressly declared obligatory or discretionary by laws or rules, and in general everything necessary for, or conducive to the safety, health, convenience or education of the inhabitants or to the amenities of the municipality and every thing incidental to the administration; and the fund shall be applicable thereto within the municipality subject to these rules and such further rules or special orders as Our Government may prescribe or issue; and shall be applicable thereto without the municipality if the expenditure is authorised by this Act or especially sanctioned by Our Government.

41. The objects of expenditure connected with the public safety include the following :—

(*a*) the lighting of public streets and the provision, purchase, exploitation and maintenance of electric, gas or other undertakings for lighting public and private streets, places and buildings;

(*b*) extinction of fires;

(*c*) control, supervision or removal of dangerous places, buildings, trades and practices;

(*d*) regulation of traffic;

(*e*) prevention and removal of obstructions in public streets or places;

(*f*) the giving of relief and the establishment and maintenance of relief works in time of famine, scarcity, epidemic or flood.

42. The objects of expenditure connected with the public health include the following :—

(*a*) The construction and maintenance of hospitals and dispensaries and temporary places of reception within the municipality or without the municipality for the treatment of infectious diseases occurring in the municipality; building hospitals and dispensaries and places of reception for the sick in general; contributing towards hospitals, dispensaries or places of reception provided by Our Government; contracting for the use of a hospital or part of a hospital, dispensary or place of reception; combining with any other local authority or with Our Government to provide a common hospital, dispensary or place of reception; sending indigent inhabitants of the municipality to institutions outside the municipality for treatment, the training of medical practitioners, medical subordinates, midwives, nurses, health officers, sanitary inspectors and analysts, the provision of nurses for attendance on patients suffering from infectious disease at the house of such persons; vaccination; and the training and supervision of vaccinators and the provision of lymph; the registration of births, deaths and marriages, the enumeration of the inhabitants of the municipality and other measures of a like nature;

(*b*) the construction and maintenance of lunatic asylums;

(c) the construction, establishment and maintenance, supervision and control of public markets and slaughter houses; of shops, stalls, and plinths; of latrines; of sewage farms and all works for the removal or disposal of sewage; of water-works, drinking fountains, tanks and wells of wash-houses and washerman quarters; of parks, squares and gardens; the reclamation of unhealthy localities; and other sanitary measures of a like nature;

(d) the cleansing and watering of streets and drains; scavenging; the removal of excessive or noxious vegetation; the abatement of all nuisances;

(e) the regulation and control of offensive or dangerous trades, of unhealthy buildings or localities, and of burial and burning grounds and crematoria; the provision of sites for and the closing of burial and burning grounds; the provision of new sites for offensive and dangerous trades and of special locations for factories; the acquisition of congested areas and the provision of new sites, whether within or without municipal limits, to relieve congestion or to provide for the growth of population: improvement and reclamation of land, planning, surveying and control of town extensions, whether within or without municipal limits, redistribution of sites in such extensions and all measures of a like nature; and the acquisition of land for any of the aforesaid purposes.

43. The objects of expenditure connected with the public convenience, education and amenities include—

(a) the construction, maintenance, diversion and improvement of streets, bridges, causeways, culverts and the like and the acquisition of the land necessary for the buildings to form or improve streets; the regulation of building; the construction of model dwellings and the encouragement of co-operative building societies by loans, grants of land or prizes; the removal of projections and encroachments: the naming of streets; the numbering of houses: the planting and preservation of trees in public streets and places: the maintenance of public monuments;

(b) subject to rules 49 to 54, the establishment and maintenance of schools, the construction and maintenance of school-houses, public libraries and reading rooms, museums, art-galleries, gymnasia or any other institutions connected with the diffusion of mental or physical culture or technical instruction or the training of teachers;

(c) the holding of industrial exhibitions or fairs;

(d) the construction, maintenance and adornment of public halls and theatres; the acquisition and maintenance of recreation grounds, playing fields and promenades;

(e) subject to all provisions of law, the construction, maintenance and purchase or exploitation of tramways and other transport services (railways not included), of grass farms, dairies, public bakeries and other agricultural, industrial or trading concerns, of public utility either within or without the municipal limits and whether or not in combination with other authorities or persons, and subscription to debenture loans of any such concerns;

(f) the employment of veterinary officers, the prevention of diseases of animals, the provision of places for the treatment of sick animals, and the prevention of cruelty to animals;

(g) the construction and maintenance of rest-houses, choultries, poor-houses, pounds and other works of public utility;

(h) the provision and maintenance or holding of zoological and horticultural gardens and exhibitions;

(i) the provision of standard weights, scales and measures and public weighing places;

(j) the provision and maintenance of public baths and bathing places;

(k) the provision of music for the people;

(l) the provision and maintenance of public clocks and clock-towers or a time gun;

(m) the organisation and maintenance of health associations;

(n) the organisation and maintenance of associations for the prevention of juvenile smoking and cruelty to children.

44. The objects of expenditure incidental to the administration include—

(a) the provision and maintenance of a principal municipal office and record room and of other offices with the cost of appurtenances and fittings and insurance;

(b) salaries allowances, liveries, pensionary contributions and provident fund contributions, gratuities and pensions of, and the cost of hire of vehicles for, the municipal officers and servants; study-leave allowances of professional officers and subordinates; sending municipal servants to any hospital or institute, for treatment; the purchase of provisions and other necessaries for sale to municipal subordinates;

(c) stationery, printing and all office and advertising expenses;

(d) legal expenses;

(e) the expenses of holding elections;

(f) the provision and maintenance of municipal workshops;

(g) municipal surveys, the preparations of maps of the municipality and the preparation and maintenance of a record of rights in immovable property.

Obligatory expenditure.

45. Expenditure on the following objects is obligatory subject to special directions that Our Government may issue in respect of any municipality by notification:—

(a) the principal municipal office and record room;

(b) maintenance of public property and monuments vested in the municipality;

(c) maintenance of property owned by the municipality;

(d) salaries and pensionary and provident fund, contributions, gratuities, and pensions of the municipal officers and servants according to the conditions on which such persons entered the municipal service;

(e) scavenging;

(f) lighting the public streets;

(g) burial and burning grounds where no sufficient number is provided by other agency;

(h) medical relief to the extent laid down in rules 46, 47 and 48;

(i) diffusion of education to the extent laid down in rules 49 to 53;

(j) registration of births and deaths;

(k) vaccination;

(l) provision of slaughter-houses;

(m) payment of interest on and amortization of debt (if any);

(n) all other objects declared obligatory by law or rule.

Obligatory medical expenditure.

46. (1) The council shall provide and maintain either from endowments or from the municipal fund or by grants-in-aid therefrom, in accordance with such rules as may from time to time be prescribed by Our Government, a hospital or dispensary where the sick poor of the municipality shall be entitled to receive medical and surgical advice and treatment free of charge; and the council shall provide and maintain more than one such hospital or dispensary if Our Government direct it to do so:

Provided that Our Government shall not so direct until the council shall have had an opportunity of submitting its views on the subject to Our Government:

Provided further that the council shall not be bound to provide or maintain any such hospital or dispensary when in the opinion of Our Government, sufficient provision has otherwise been made for the treatment, free of charge, of the sick poor of the municipality.

(2) Any inhabitant of the municipality, who is not a fit object of public charity may, subject to such regulations as the council, with the approval of Our Government, may from time to time frame, obtain medical or surgical advice and treatment from any hospital or dispensary maintained by the council from endowments or from the municipal fund provided that any charges incurred by the council in the medical or surgical relief of persons other than the sick poor of the municipality or those unable to pay a medical attendant shall be reimbursed by such persons.

(3) The council may also permit the treatment in the hospitals or dispensaries maintained by it from endowments or from the municipal fund of any person not resident in the municipality.

47. The council shall provide every hospital or dispensary provided or maintained by it with all necessary drugs, instruments, apparatus, furniture and appliances on a scale approved by Our Government, and when, in the opinion of the council, provision for in-patients may be necessary, it shall also provide a sufficient number of cots, bedding, clothing, furniture and diet for such in-patients.

48. The council shall employ a medical officer for any hospital or dispensary maintained by it from endowments or from the municipal fund.

Obligatory educational expenditure.

49. The council shall, so far as the funds at its disposal may admit, make provision for the instruction in schools of all children of school-going age resident within the limits of the municipality, for whose instruction provision shall not otherwise have been made.

50) The council may provide instruction—

(i) either by schools maintained wholly from the municipal fund, or

(ii) by means of grants-in-aid to private schools from the said fund in accordance with such rules as may from time to time be prescribed by Our Government, or

(iii) by contributing towards the cost of Government schools, or

(iv) by more than one of such means.

51. The council may, with the previous sanction of Our Government, maintain either wholly from the municipal fund, or by grants-in aid therefrom, primary schools to which admission may be wholly or partly free for any class of the inhabitants which, in the opinion of the council, is by reason of poverty unable to pay the fees leviable in schoolls maintained by the council whether wholly from the municipal fund or by grants-in-aid there from.

52. (1) If at any time it seems advisable to Our Government that a grant-in-aid should be made to any school maintained solely for the instruction of the children of any particular class of the inhabitants of any municipality they may direct the municipal council to make such grant to such school; and the council shall make it accordingly; provided that Our Government shall not so direct until the council shall have had an opportunity of submitting its views on the subject to Our Government.

(2) The instruction to be provided by the council shall be of such standards as may from time to time be determined by Our Government.

53. (1) The council shall, unless otherwise provided by any law for the time being in force, or in the case of primary schools exempted by Our Government on such conditions as it may prescribe from time to time levy in every school maintained by it fees as may from time to time be determined by Our Government;

Prvided that if the council is satisfied that the parent or guardian of any child resident in the municipality, is by reason of proverty unable to pay for the primary education of such child, it may remit the whole or part of the fees, but it shall not compel the parent or guardian of such child in consideration of the said relief to send such child to any particular municipal school:

Provided further that the council may, in the case of schools other than primary schools in accordance with a scheme framed by it and approved by the Director of Public Instruction, remit the whole or part of the fees of poor pupils, subject to the condition that the fee income thus foregone shall not exceed 10 per cent. of the total fees realizable from all pupils of the school at the rates determined by Our Government,

(2) The proceeds of all fees levied by the council as aforesaid shall be expended by the council for the provision of instruction by means of schools.

Discretionary educational expenditure.

54. The council may also provide wholly from the municipal fund, or by means of grants-in-aid therefrom—

(i) for the inspection of schools maintained by it, whether wholly from the municipal fund or by grants-in-aid therefrom;

(ii) for the training of teachers for schools aided or maintained from the municipal fund;

(iii) for the instruction and training of persons for the practice of medicine, or of vaccination, or of any technical or industrial calling; and

(iv) for the maintenance of public libraries, reading rooms, gymnasia or any other institutions connected with the diffusion of education, which may be approved by Our Government.

Extraordinary expenditure.

55. A municipal council may with the sanction of Our Government,

(1) contribute towards the expenses of any public exhibition, ceremony or entertainment in the municipality;

(2) defray the cost of the preparation and presentation of addresses to persons of distinction visiting the municipality;

(3) contribute to any charitable fund or to the funds of any institution for the relief of the poor or the treatment of disease or infirmity or the reception of diseased or infirm persons or the investigation of the causes of disease;

(4) pay a conveyance allowance to the chairman or vice-chairman;

(5) pay the expenses of the chairman, members of the council and municipal officers and servants travelling on municipal business; and

(6) any other extraordinary charges.

Receipts and Payments.

56. All moneys received by the council shall be lodged in the nearest Government treasury or, with the sanction of Our Government, in a bank:

Provided that the municipal council may, with the sanction of Our Government, invest any sums not required for immediate use either in a Government savings bank or in Government securities, or in any other security which may be approved by Our Government.

57. (1) All orders or cheques against the municipal fund shall be signed by the executive authority or by some person duly authorised in this behalf by him. The treasury or bank in which the fund is lodged shall, so far as the funds to the credit of the council admit, pay all orders or cheques against the fund which are so signed.

(2) If the council shall have given previous authority in writing such treasury or bank may at once pay out of the municipal fund without such order or cheque any expense which Our Government have incurred on behalf of the council.

Audit, surcharge and disallowance.

58. The executive authority shall submit all accounts to auditors as required by them.

59. The auditors may—

(*a*) by summons in writing require the production of any document, the perusal or examination of which they believe necessary for the elucidation of the accounts;

(*b*) by summons in writing require any person having the custody or control of any such document or accountable for it to appear in person before them;

(*c*) require any person so appearing to make and sign a declaration with respect to such document or to answer any question or to prepare and furnish any statement relating thereto.

60. The auditors shall—

(*a*) report to the council any material impropriety or irregularity which they may observe in the expenditure or in the recovery of moneys due to the council or in the municipal accounts;

(*b*) furnish to the council such information as it may require concerning the progress of their audit;

(*c*) report to the council any loss or waste of money or other property owned by or vested in the council caused by neglect or misconduct, with the names of persons, directly or indirectly, responsible for such loss or waste; and

(*d*) submit to the council a final statement of the audit and a duplicate copy thereof to Our Government within a period of three months from the end of the financial year, or within such other period as Our Government may notify.

61. The executive authority shall forthwith remedy any defects or irregularities that may be pointed out by the auditors and report the same to the council.

62. (1) The auditors may disallow every item contrary to law and surcharge the same on the person making or authorising the making of, the illegal payment; and may charge against any person responsible therefor the amount of any deficiency or loss incurred by the negligence or misconduct of that person or of any sum which ought to have been but is not brought into account by that person and shall, in every such case, certify the amount due from such person.

(2) The auditors shall state in writing the reasons for their decision in respect of every disallowance, surcharge or charge and furnish by registered post or anchal a copy thereof to the person against whom it is made.

(3) If the person to whom a copy of the auditors' decision is so furnished refuses to receive it, he shall nevertheless be deemed to have been duly furnished with a copy of such decision within the meaning of sub-rule (2). The period of fourteen days fixed in rules 63 and 64 shall be calculated from the date of such refusal.

63. Any person aggrieved by disallowance, surcharge or charge made may within fourteen days after he has received or been served with the decision of the auditor, either—

(*a*) apply to the principal civil court of original jurisdiction to set aside such disallowance, surcharge or charge and the court, after taking such evidence as is necessary, may confirm, modify or remit such disallowance, surcharge, or charge with such orders as to costs as it may think proper in the circumstances; or

(*b*) in lieu of such application may appeal to Our Government who shall pass such orders as they think fit.

64. Every sum certified to be due from any person by auditors under this Act shall be paid by such person to the chairman within fourteen days after the intimation to him of the decision of the auditors unless within that time such person has appealed to the court or to Our Government against the decision; and such sum if not so paid, or such sum as the court or Our Government shall declare to be due, shall be recoverable on an application made by the executive authority to the court in the same way as an amount decreed by the court.

65. The municipality shall pay to the auditors out of the Municipal Fund such remuneration as Our Government may determine.

APPENDIX A.

Distraint Warrant.

[See Rule 31 (4)]

Warrant No.

To

(Name of officer charged with execution of warrant.)

(State tax or taxes due and premises, if any, in respect of which the tax or taxes are due.)

Whereas of has not paid or shown sufficient cause for the non-payment of the sum of Rs. ch. c. due for the tax or taxes noted above for the ending 19 although the said sum has been duly demanded from the said and fifteen days have elapsed since such demand was made. This is to command you to demand the said sum of Rs. ch. c. together with annas two for warrant fee, failing payment of which you are to distrain the goods and chattels of the said (or, as the case may be, any goods and chattels found on the premises referred to), to the amount of the said sum of Rs. ch. c. together with Rs. ch. c. for warrant fee and distraint fee making together a sum of Rs. ch. c. and such further sum as may be sufficient to defray the charges of keeping and selling such distraint; and if within seven days next after such distraint, the amount due on account of the said tax or taxes and fee shall not be paid, together with such further sum as may be sufficient to defray the charges of keeping such distraint, to sell the said goods and chattels under orders to be hereafter issued by me, and to remit to the municipal office the sale proceeds of the distraint property, out of which the amount due on account of the said taxes and fees, *viz*., Rs. chs. c. and the charges of keeping, and selling such distraint will be deducted and credited to the municipal fund, and the surplus, if any, returned to the

owner of the goods, and chattles distrained. If distraint or sufficient distraint cannot be found of the goods and chattels of the said you are to certify the same to me together with this warrant.

Signature of the executive authority.

STATION
Date 19 .

APPENDIX B.

Form of Inventory and Notice.

[See Rule 32 (1) (c).]

(State particulars of goods and chattels seized.)

Take notice that I have this day seized the goods and chattels specified in the above inventory for the sum of Rs. chs. c. due for the tax or taxes mentioned in the margin for the - ending 19 ; and that unless you pay into the office of the municipality of the amount due together with the warrant fee, the distraint fee and cost of keeping the goods and chattels, within seven days from the date of this notice, the goods and chattels will be sold on the day of 19 , at the municipal office or at such other place as the executive authority may direct and that the goods and chattels may be sold at any previous date, if they are liable to speedy and natural decay.

(Signature of the officer executing the warrant of distress.)

STATION
Date 19 .

APPENDIX C.

Table of Fees payable on Distraints.

[See Rule 34 (1).]

Value of property.		*Amount of fee* Rs.	chs.	c.
Under ten rupees	...	0	4	0
Ten and under twenty-five rupees	...	0	7	0
Twenty five and under fifty rupees	...	1	0	0
Fifty and under one-hundred rupees	...	2	0	0
One hundred rupees and upwards	...	3	0	0

SCHEDULE III.

Purposes for which premises may not under Section 261 be used without a licence.

(SEE SECTION 261).

Aerated waters—Manufacturing.

Aloe fibre and yarn—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever:

Ammunition—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.

Arecanuts—Soaking of.

Articles made of flour—Baking, preparing, keeping or storing for human consumption (for other than domestic use.)

Ashes—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever, dumping or sifting.

Bamboos—Storing for sale, hire or manufacture.

Biscuits—Baking, preparing, keeping or storing for human consumption (for other than domestic use)

Blood—Storing, packing, pressing, cleansing; preparing or manufacturing by any process whatever.

Bones—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Bread—Baking, preparing, keeping or storing for human consumption (for other than domestic use.)

Bricks—Manufacturing.

Camphor—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever or boiling.

Candles—Packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Carpets—Manufacturing.

Cashewnuts—Storing, packing, preparing or manufacturing by any process whatever.

Catgut—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Cement—Packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Charcoal—Dumping, sifting, selling or storing.

Chemical preparations—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Chillies—Grinding by machinery.

Chillies (dried)—Selling wholesale or storing for wholesale trade.

Chlorate mixture—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Cinders—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever, dumping or sifting.

Cloths—Dyeing.

Coal—Dumping, sifting, selling or storing.

Cocoanut fibre—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Cocoanut husks and cadjan leaves—Soaking of.

Cocoanut shell—Storing.

Coir yarn—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Combustible material—Storing.

Comestibles—Baking, preparing, keeping or storing for human consumption (for other than domestic use).

Condiments—Manufacturing.

Confectionery—Baking, preparing, keeping or storing for human consumption (for other than domestic use).

Copra—Preparing or storing or selling wholesale.

Cotton, cotton refuse, cotton seed—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Cow-dung cakes—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Dyes—Packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Explosive—Storing

Fibre—Selling or storing.

Fat—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Fins—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Firewood—Selling or storing.

Fireworks—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Fish—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Fish oil—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Flax—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Fleshings—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Flour—Packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Fuel—Using for any industrial purpose.

Fulminate of mercury—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever

Furniture—Making or storing for sale.

Gas—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Ghee—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Gold—Refining.

Grain—Selling wholesale or storing for wholesale trade.

Gram—Husking by machinery.

Grass—Storing.

Groundnut—Selling wholesale or storing for wholesale trade.

Gun-Cotton—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Gunny-bag—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Gunpowder—Storing, packing, pressing, preparing or manufacturing by any process whatever.

Fair—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever, dyeing or drying.

Hay—Selling or storing.

Hemp—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Hides—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Hoofs—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Horns—Storing, packing, cleansing, preparing or manufacturing by any process whatever.

Ice—Manufacturing.

Jaggery—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever or selling wholesale.

Jute—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Kakhi—Preparing.

Lac—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Lead—Melting.

Leather—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Lime—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Limeshells—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Manure—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Machinery—Using for any industrial purpose.

Matches—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Meat—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Metals—Beating, breaking, hammering, casting, etc.

Nitro-compound—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Nitro-glycerine—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Nitro-mixture—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Offal—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Oil—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever or boiling.

Paddy—Boiling or husking by machinery.

Paper—Packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Petroleum products—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Pitch—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Pottery—Packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Rugs—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Resin (including rosin)—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Sago—Manufacturing or distilling.

Saltpetre—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Seekai—Powdering by machinery.

Shellac—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Silk—Packing, pressing, cleansing, preparing, or manufacturing by any process whatever.

Skins—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Soap—Packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Spirits—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Straw—Selling or storing.

Sugar—Packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Sugar-candy—Packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Sulphur—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever or melting.

Surki-Storing—packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Sweet-meats—Baking, preparing, keeping or storing for human consumption (for other than domestic use).

Tallow—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever or melting.

Tar—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Thatching materials—Selling or storing.

Tiles—Manufacturing.

Timber—Selling or storing.

Tobacco (including snuff, cigars, cigarettes and beedies)—Storing, packing pressing, cleansing preparing or manufacturing by any process whatever.

Turpentine—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Wool—Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever, dyeing or drying.

Yarn – Dyeing.

Provided that no licence shall be required for the storage only of any of the articles mentioned in this Schedule or for boiling paddy or for soaking arecanuts when such storage or boiling or soaking is for domestic use and limited to such quantities as may from time to time be fixed by the executive authority.

Guilding or electro-plating.

Keeping a shaving or hair dressing saloon.

Keeping together pigs or ten or more sheep or goats or two or more buffaloes or ten or more head of cattle.

Manufacturing articles from which offensive or unwholesome smells, fumes, dust or noise arise.

Washing soiled clothes and keeping soiled clothes for purpose of washing them and keeping washed clothes.

In general, any purpose or the doing in the course of any industrial process anything which in the opinion of the executive authority is likely to be dangerous to human life or health or property or is likely to create or cause a nuisance.

SCHEDULE IV.

LIST OF DANGEROUS DISEASES.

(See Section 307.)

Acute influenzal pneumonia.	Leprosy.
Anthrax	Plague.
Chicken-pox.	Smallpox.
Cholera.	Tuberculosis.
Diphtheria.	Typhoid fever.
Enteric fever.	Influenza.
Glanders.	Relapsing fever.
Rabies.	

SCHEDULE V.

Ordinary Penalties.

(See Section 334.)

Section or rule.	Sub-section or clause.	Subject.	Fine which may be imposed.
1	2	3	4
32	(1)	Interested councillor voting or taking part in discussion.	Fifty rupees.
87	...	Failure to give notice of transfer of title or to produce documents.	Do.
88	(1)	Failure to send notice to chairman after completion of construction or reconstruction of building.	Do.
90	(1)	Failure of owner or occupier to furnish return of rent, etc.	One hundred rupees.
96	...	Failure of owner or occupier to obey requisition to furnish list of persons carrying on profession, art, etc.	Do.
97	...	Failure of employer or head of an office, firm or company to obey requisition to furnish list of persons in his employ.	Do.
102	(2)	Failure of occupier to obey requisition to furnish statement of vehicles and animals liable to taxation or furnishing incorrect statements.	Ten rupees.
104	...	Failure to obey order to affix and register number of carriage.	Do.
105	(2)	Failure of owner to register cart or other vehicle.	Do
105	(3)	Failure to have or keep registration number affixed to cart.	Do
114	...	Attempt to evade payment of toll.	Fifty rupees.
137	...	Trespassing on premises connected with the water supply	Do.
140	..	Failure to maintain house connections in conformity with bye-laws and regulations.	Do.
141	(2)	Failure to obey requisition to make house connection.	Do.
149	...	Failure to maintain house-drains, etc., in conformity with bye-laws and regulations.	Do
150	(2) & (3)	Failure to obey requisition as to house drainage.	Do.
151	(1) (b)	Failure to obey direction as to limited use of drain or notice requiring construction of distinct drain.	Do.

ORDINARY PENALTIES.

Section or rule.	Sub-section or clause.	Subject.	Fine which may be imposed.
1	2	3	4
153	...	Unlawful construction of building over public drain.	One hundred rupees.
154	...	Failure to obey requisition regarding culverts etc., or to keep them free from obstruction	Fifty rupees.
155	...	Failure to obey requisition to maintain troughs and pipes for catching, etc., water from roof or other part of building.	Do.
157	...	Failure to obey requisition to provide latrine or to remove latrine to another site and failure to keep latrine clean and in proper order.	Do.
158	...	Failure to provide latrines for premises used by large numbers of people or to keep them clean and in proper order.	One hundred rupees
159	...	Failure to obey requisition to provide latrines for market, cattle-stand or cart-stand or to keep them clean and in proper order.	Do.
160	...	Failure to construct latrines so as to screen persons using them from view.	Twenty rupees.
162	...	Making connection with mains without permission.	Two hundred rupees.
166	...	Improper disposal of carcasses, rubbish and filth	Ten rupees.
167	...	Allowing rubbish or filth to accumulate on premises for more than twenty-four hours, etc.	Twenty rupees.
168	...	Allowing filth to flow in streets.	Ten rupees.
169	...	Using cart without cover in removal of filth etc.,	Twenty rupees.
170	...	Throwing rubbish or filth into drains.	Do.
177	...	Building within regular lines of street.	One thousand rupees.
178	(1)	Failure to obey orders to set back buildings.	Five hundred rupees.
180	...	Unlawful displacement, etc., of pavement or fences, posts and other materials of public street.	Fifty rupees.
185	(1)	Using a motor vehicle for hire or a motor lorry without licence or contrary to licence.	Two hundred rupees.
186	...	Failure to provide roads, etc., on building-sites prior to disposal.	Do.
187	(5)	Unlawful making or laying of new private street.	Five hundred rupees.
189	...	Failure to obey requisition to metal, etc., private street.	One hundred rupees.

ORDINARY PENALTIES.—(*contd.*)

Section or rule.	Sub-section or clause.	Subject.	Fine which may be imposed.
1	2	3	4
191	...	Building wall or erecting fence, etc., in a public street	One hundred rupees.
192	...	Obstructing a person in the use of a street referred to in Section 192.	Do.
193	...	Allowing doors, ground-floor windows, etc., to open outwards without license or contrary to notice.	Twenty rupees.
194	...	Failure to remove permanent encroachment.	Two hundred rupees.
195	...	Failure to remove temporary encroachment.	Fifty rupees.
197	...	Unlawful removal of bar, or shoring timber., etc., or removal or extension of light.	Twenty rupees,
198	...	Unlawful making of hole or placing of obstruction in street.	Fifty rupees.
199	...	Construction, etc., of building without licence where street or footway is likely to be obstructed.	Do.
199	...	Failure to fence, etc., such building while under repair or failure to remove obstruction.	Do.
200	...	Failure to remove obstruction caused in street by fall of trees, etc., within 12 hours of fall.	Do.
201	(3)	Unlawful destruction, etc., of name of street.	Twenty rupees,
202	(2)	Unlawful destruction, etc., of number of building.	Five rupees.
202	(3)	Failure to replace number when required to do so.	Twenty rupees.
205	(5)	Constructing or reconstructing building contrary to declaration issued by council.	Two hundred rupees.
206	(1)	Failure to obey requisition to round or splay-off building at corners of street.	One hundred rupees.
207	...	Construction of external roofs, etc., with inflamable materials.	Fifty rupees.
208	...	Construction of door or window, etc., to open outwards on public street.	Twenty rupees.
223	...	Failure to keep external walls of premises in proper repair.	Do.
230	(5)	Failure to obey requisition to take down repair or secure dangerous structure.	Five hundred rupees.
231	(2)	Failure to obey requisition to secure, lop, or cut down dangerous trees.	Fifty rupees.

ORDINARY PENALTIES.—(contd.)

Section or rule.	Sub-section or clause.	Subject.	Fine which may be imposed.
1	2	3	4
232	...	Failure to obey requisition to repair, etc., tank or other place dangerous to passers by or persons living in neighbourhood.	Fifty rupees.
233	...	Failure to obey requisition to stop dangerous quarrying.	One hundred rupees.
234	...	Failure to obey notice regarding precautions against fire.	Do.
235	(1)	Constructing well, etc., without permission.	Fifty rupees.
...	(3)	Failure to obey notice to fill up or demolish well, etc.,	Do.
236	...	Failure to obey requisition to fill up, etc., tank or well, or drain off water, etc.	Do.
237	...	Cultivating contrary to prohibition or regulations.	Five hundred rupees.
238	...	Failure to obey requisition to cleanse or close, etc., tank, well or other source of water used for drinking.	Fifty rupees.
240	...	Obstructing a person in the use and enjoyment of a well, tank or reservoir referred to in Section 227—A.	One hundred rupees.
241	...	Unlawful washing and fishing in river, etc. after prohibition or contrary to regulations.	Fifty rupees.
243	...	Washing of clothes by washermen at unauthorized places.	Twenty rupees.
244	...	Defiling water of tanks, etc.	Fifty rupees.
245	...	Failure to obey requisition to enclose, clear or cleanse untenanted premises.	Do.
246	...	Failure to obey requisition to clear or cleanse, etc., building or land in filthy state or over grown with noxious vegetation.	Do.
247	...	Failure to obey requisition to fence building or land or trim, prune or cut hedges and trees or lower an enclosing wall.	Do.
248	...	Failure to obey requisition to limewash or otherwise cleanse building.	Do.
249	...	Failure to obey requisition to execute work or take other action with respect to insanitary buildings.	One hundred rupees in the case of building and fifty rupees in the case of hut.
250	(2)	Using or allowing the use of buildings unfit for human habitation after prohibition.	Twenty rupees for each day.
	(4)	Failure to obey requisition to demolish the same.	Do.

ORDINARY PENALTIES—(*contd.*)

Section or rule.	Sub-section or clause	Subject.	Fine which may be imposed.
1	2	3	4
251	(1)	Allowing overcrowding in building after order to abate the same.	Ten rupees for eachday.
251	(4)	Failure to obey requisition to vacate overcrowded building or room.	Do.
252	...	Feeding animals on filth.	Fifty rupees.
253	...	Unlawful keeping of animal so as to be a nuisance or dangerous.	Ten rupees.
258	..	Use of place as stable, cattle-stand, etc., without licence or contrary to licence.	Fifty rupees.
259	...	Construction or maintenance of stable, cattle-shed, etc., contrary to act or subsidiary legislation.	Do.
260	...	Use of place as stable, cattle-shed, etc., contrary to notice issued by chairman.	Two hundred rupees.
261	(1)	Using a place for any of the purposes specified in Schedule V without licence or contrary to licence	One hundred rupees.
262	...	Unlawful erection of factory, workshop, etc.	One thousand rupees.
263	...	Disobedience of order regarding abatement of nuisance.	One hundred rupees.
267	...	Use of place as slaughter-house without licence or contrary to licence.	Two hundred rupees.
269	...	Slaughter of animals for sale or food or skinning or cutting up carcases or drying skin so as to cause a nuisance.	Twenty rupees for every animal, carcase or skin.
270	...	Carrying on milk trade without licence or contrary to licence.	Fifty rupees.
271	...	Obstructing a person in the use of a market referred to in Section 259.	One hundred rupees.
273	...	Sale or exposure for sale in public market of animal or article without licence or contrary to licence	Twenty rupees
274	...	Opening or keeping open private market without licence or contrary to licence.	Five hundred rupees.
276	...	Sale or exposure for sale of animal or article in unlicenced private market	Twenty rupees.
277	(2)	Failure to obey direction to construct approaches, drains etc, to private markets or to pave them, etc.	Fifty rupees.
278	(2)	Opening or keeping open of private market after suspension or refusal of licence for default to carry out works.	Twenty rupees for each day.

ORDINARY PENALTIES—(*contd.*)

Section or rule.	Sub section or clause	Subject.	Daily fine which may be imposed.
1	2	3	4
279	...	Nuisances in private markets	Twentyrupees
283	..	Carrying on butcher's, fishmonger's or poulterer's trade without licence etc.	One hundred rupees
284	...	Sale or exposure for sale of animal or article in public street	Ten rupees
287	...	Using a public place or the sides of a public street or public landing place etc.	Two hundred rupees
289	...	Opening or keeping open a new private cart stand without license or contrary to licence.	Do.
293	...	Preventing the Chairman or any person authorised by him from exercising his powers of entry, etc. under this section	Fifty rupees
295	...	Removing or in any way interfering with an animal or article secured under Section 274	Five hundred rupees
299	(1)	Opening etc., without licence a new place for the disposal of the dead	One hundred rupees
301	(3)	Use or allowance of use of burial or burning ground which has not been registered, licensed or provided	Do.
30[illegible]	...	Failure to give information of burials or burnings in burial or burning ground	Twentyrupees
303	(3)	Burial or burning in a place after prohibition	One hundred rupees
304	...	Offences in respect of corpses	Fifty rupees
305	...	Discharge of office of grave digger or attendant at place for disposal of dead without licence	Five rupees
308	...	Failure of medical practitioner or owner to give information of existence of dangerous disease in private or public dwelling	Fifty rupees
310	...	Failure to obey requisition to cleanse or disinfect buildings or articles.	Do.
311	(3)	Washing of infected articles at unauthorised places	Do.
312	...	Giving, lending, etc., of infected articles	Do.
313	...	Using water after prohibition	Do.
315	...	Infected person carrying on occupation	Do.
316	(1)	Travelling of infected persons in public conveyance without taking proper precautions against spread of disease	Do.
316	(2)	Entry of infected person into public conveyance without notifying fact of infection	Do.
316	(3)	Carrying infected person in public conveyance	Do.
3 7	...	Letting or sub-letting of infected building without previous disinfection etc.	Two hundred rupees

ORDINARY PENALTIES —(*contd*)

Section or rule.	Sub section or clause	Subject.	Daily fine which may be imposed.
1	2	3	4
318	...	Failure to close place of public entertaiment	Two hundred rupees
319	...	Sending infected child to school	Fifty rupees
321	...	Failure to give information of small-pox	Do.
322	...	Person entering municipality within forty days of inoculation for small-pox without certificate	One hundred rupees
342	(9)	Failure to produce licence on request	Five rupees
346	...	Failure to obey summons	Fifty rupees
354	(1)	Failure of occupier to obey requisition to permit owner to comply with provisions of Act	Fiftyrupees for each day
383	...	Obstructing or molesting municipal council etc.	Fifty rupees
384	...	Removing mark set up for indicating level, etc.	Do.
385	...	Removal, etc. of notice exhibited by or under orders of the council	Do.
386	...	Unlawful removal of earth sand or other material from land vested in the council or deposit of matter or encroachment in or on river, estuary, etc.	Twenty rupees
Rule 59 of Schedule II	...	Failure to obey requisition by auditors to attend give evidence or produce documents.	Fifty rupees

SCHEDULE VI.

PENALTIES FOR CONTINUING BREACHES.
(See Section 334.)

Section or rule.	Sub-section or clause	Subject.	Daily fine which may be imposed.
1	2	3	4
140	...	Failure to maintain house-connexions in conformity with bye-laws and regulations.	Five rupees.
141	(2)	Failure to obey requisition to make house connexion.	Do.
149	...	Failure to maintain house-drains, etc., in conformity with bye-laws and regulations.	Ten rupees.
150	(2)&(3)	Failure to obey requisition as to house drainage.	Do.
155	...	Failure to obey requisition to maintain troughs and pipes for catching, etc., water from roof or other part of building.	Do.
157	...	Failure to obey requisition to provide latrine or to remove latrine to another site and failure to keep latrines clean and in proper order.	Do.
158	...	Failure to provide latrines for premises used by large numbers of people or to keep them clean and in proper order.	Twenty rupees
159	...	Failure to obey requisition to provide latrines for market, cattle stand or cart stand or to keep them clean and in proper order.	Do.
177	...	Building within regular lines of street.	One hundred rupees
185	(1)	Using a motor vehicle for hire or a motor lorry without licence or contrary to licence.	Fifty rupees.
194	...	Failure to remove permanent encroachment.	Ten rupees.
195	...	Failure to remove temporary encroachment.	Five rupees.
198	...	Unlawful making of hole or placing of obstruction in street.	Ten rupees.
199	...	Construction, etc., of building without licence where street or footway is likely to be obstructed.	Do.
206	(1)	Failure to obey requisition to round or splay off buildings at corners of streets.	Fifty rupees
207	...	Construction of external roofs, etc., with inflammable materials.	Ten rupees.
226	...	Failure to keep external walls of premises in proper repair.	Do.

SCHEDULE VI - (*contd*)

PENALTIES FOR CONTINUING BREACHES.

(See Section 334)

Section or rule	Sub section or clause	Subject	Daily fine which may be imposed.
1	2	3	4
232	...	Failure to obey requisition to repair, etc. tank or other place dangerous to passengers by or persons living in neighbourhood.	Ten rupees
233	...	Failure to obey requisition to stop dangerous quarrying.	Do.
234	...	Failure to obey notice regarding precautions against fire.	Do.
236	...	Failure to obey requisition to fill up, etc. tank or well or drains off water, etc.	Do.
238	...	Failure to obey requisition to cleanse or close, etc. tank, well, etc. or other source of water used for drinking.	Do.
245	...	Failure to obey requisition to enclose, clear or cleanse untenanted premises.	Do.
246	...	Failure to obey requisition to clear or cleanse, etc building or land in filthy state or overgrown with noxious vegetation.	Do.
247	...	Failure to obey requisition to fence building or land or trim, prune or cut hedges and trees or lower an enclosing wall	Do.
248	...	Failure to obey requisition to lime-wash or otherwise cleanse building.	Fifty rupees
249	...	Failure to obey requisition to execute work or take other action with respect to insanitary buildings.	Ten rupees in the case of building and five rupees in the case of hut.
253	...	Unlawful keeping of animal so as to be a nuisance or dangerous	Five rupees.
258	...	Use of place as stable, cattle stand etc. without licence or contrary to licence.	Ten rupees.
259	...	Construction or maintenance of stable cattle-shed etc. contrary to Act, or subsidiary legislation.	Do.
260	...	Use of place as stable, cattle-shed, etc. contrary to notice issued by the Chairman	Fifty rupees.

SCHEDULE VI. (*contd*)

PENALTIES FOR CONTINUING BREACHES
(See Section 334.)

Section or rule.	Sub-section or clause	Subject.	Daily fine which may be imposed
1	2	3	4
261	...	Using a place for any of the purposes specified in Schedule V without licence or contrary to licence.	Twenty rupees
262	...	Unlawful erection of factory workshop, etc.	One hundred rupees.
263	...	Disobedience of order regarding abatement of nuisance.	Do.
267	...	Use of place as slaughter house without licence or contrary to licence.	Fifty rupees.
270	...	Carrying on milk trade without licence or contrary to licence.	Five rupees.
274	...	Opening or keeping open private market without licence or contrary to licence.	One hundred rupees.
276	...	Sale or exposure for sale of animal or article in unlicenced private market.	Twenty rupees.
283	...	Carrying on butcher's, fishmonger's or poulterer's trade without licence, etc.	Ten rupees.
287	...	Using a public place or the sides of a public street as a Public landing place.	Twenty rupees
28[illegible]	...	Opening or keeping open a new private cart stand without licence or contrary to licence.	Do.
299	...	Using without licence place for the disposal of the dead.	One hundred rupees.
310	...	Failure to obey requisition to cleanse or disinfect buildings or articles.	Ten rupees.
318	...	Failure to close place of public entertainment	One hundred rupees.
Rule 59 of Schedule II.	...	Failure to obey requisition by auditors to attend, give evidence or produce documents.	Twenty five rupees.

Trivandrum,
17th March 1941

A. GUNAMONY,
Secretary to the Sri Mulam Assembly.

Annexure II.

THE TRAVANCORE PAYMENT OF WAGES BILL

(As revised by the Select Committee)

(The words in Italics denote the amendments suggested by the Committee

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THE TRAVANCORE PAYMENT OF WAGES BILL.

(As revised by the Select Committee.)

The words in Italics denote the amendments suggested by the Committee.

AN ACT TO REGULATE THE PAYMENT OF WAGES TO CERTAIN CLASSES OF PERSONS EMPLOYED IN INDUSTRY.

Preamble.

Whereas it is expedient to regulate the payment of wages to certain classes of persons employed in industry; It is hereby enacted as follows :—

Short title extent commencement and application.

1. (1) This Act may be called the Travancore Payment of Wages Act, 111 .

(2) It extends to the whole of Travancore.

(3) It shall come into force on such date as Our Government may by notification in Our Government Gazettee appoint.

(4) It applies in the first instance to the payment of wages to persons employed in any factory *or mine*.

(5) Our Government may, after giving three months' notice of its intension of so doing, by notification in Our Government Gazette, extend the provisions of the Act or any of them to the payment of wages to any class of persons employed in any industrial establishment or in any class or group of industrial establishments.

(6) Nothing in this Act shall apply to wages payable in respect of a wage-period which over such wage-period, average two hundred rupees a month or more.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context.—

(i) "factory" means factory as defined in clause (i) of Section 2 of the Travancore Factories Act, VIII of 1114.

(ii) "industrial establishment" means any—

(*a*) motor *vehicle* service ;

(*b*) dock, wharf or jetty ;

(*c*) inland steam vessel ;

(*d*) quarry or oil field *other than a mine* ;

(e) plantation ;

(f) work shop or other establishment in which articles are produced, adapted or manufactured with a view to their use, transport or sale ;

(iii) "*mine*" *means a mine as defined in the Travancore Mines and Minerals Act (Act III of 1103)*.

(iv) "plantation" means any estate which is maintained for the purpose of growing cinchona, rubber, coffee, tea or cardamom and on which twenty-five or more persons are employed for that purpose.

(v) "prescribed" means prescribed by rules made under this Act ;

(vi) "*steam vessel*" *means a steam vessel as defined in the Travancore Public Canals and Public Ferries Act of 1096 (Act VI of 1096)*.

(vii) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable, whether conditionally upon the regular attendance, good work or conduct or other behaviour of the person employed, or otherwise, to a person employed in respect of his employment or of work done in such employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of his employment, but does not include—

(a) the value of any house-accommodation, supply of light water, medical attendance or other amenity, or of any service excluded by general or special order of Our Government ;

(b) any contribution paid by the employer to any pension fund or provident fund ;

(c) any travelling allowance or the value of any travelling concession ;

(d) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment ; or

(e) any gratuity payable on discharge.

Responsibility for payment of wages.

3. Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act :

Provided that, in the case of persons employed (otherwise than by a contractor)—

(a) in factories, if a person has been named as the manager of the factory under clause (e) of sub-section (I) of Section 9 of the Travancore Factories Act VIII of 1114.

(*b*) *in mines if a person has been named as the manager of the mine under Sub-section (1) of Section 13 of the Travanco e Mines and Minerals Act, (Act III of 1103).*

(*c*) in industrial establishments, if there is a person responsible to the employer for the supervision and control of the industrial establishment, the person so named or the person so responsible to the employer, as the case may be, shall be responsible for such payment.

Fixation of wage periods.

4. (1) Every person responsible for the payment of wages under Section 3 shall fix periods (in this Act referred to as wage periods) in respect of which such wages shall be payable.

(2) No wage-period shall exceed one month.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), Our Government may by notification in Our Government Gazette fix any shorter wage-period for any class of factory or industrial establishment or any such factory or industrial establishment in any specified area.

Time of payment of wages.

5. (1) The wages of every person employed upon or in—

(*a*) any factory or mine or industrial establishment upon or in which less than one thousand persons are employed, shall be paid before the expiry of the seventh day

(*b*) any other factory or mine or industrial establishment, shall be paid before the expiry of the tenth day after the last day of the wage-period in respect of which the wages are payable.

(2) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day from the day on which his employment is terminated.

(3) All payments of wages shall be made on a working day.

Wages to be paid in current coin or currency notes.

6. All wages shall be paid in current coin or currency notes in both.

Deductions which may be made from wages.

7. (1) The wages of an employed person shall be paid to him without deductions of any kind except those authorised by or under this Act.

Explanation:—Every payment made by the employed person to the employer or his agent shall, for the purposes of the Act, be deemed to be a deduction from wages.

(2) Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely:—

(a) fines;

(b) deductions for absence from duty;

(c) deductions for damage to or loss of goods expressly entrusted to the employed person for custody or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;

(d) deductions for house accommodation supplied by the employer;

(e) deductions for such amenities and services supplied by the employer as Our Government may, by general or special order, authorise:

Explanation:—The word 'services' in this sub-clause does not include the supply of tools and raw materials required for the purposes of employment.

(f) deductions for recovery of advances or for adjustment of over payments of wages;

(g) deductions of income tax payable by the employed person;

(h) deductions required to be made by order of a Court or authority competent to make such order.

(i) deductions for subscriptions to, and for repayment of advances from any provident fund approved in this behalf by Our Government during the continuance of such approval; and

(j) deductions for payments to co-operative societies approved by Our Government or to a scheme of insurance maintained by Our Government.

Fines.

8. (1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of Our Government or of the prescribed authority may have specified by notice under sub-section (2).

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on.

(3) No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to one chuckram in the rupee of the wages payable to him in respect of that wage-period.

(5) No fine shall be imposed on any employed person who is under the age of fifteen years.

(6) No fine imposed on any employed person shall be recovered from him by instalments or after the expiry of sixty days from the day on which it was imposed.

7 Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(8) All fines and all realisations thereof shall be recorded in a register to be kept by the person rosponsible for the payment of wages under Section 3 in such form as may be prescribed and all such realisations shall be applied only to such purposes beenficial to the persons employed in the factory, or *mine* or establishment as are approved by the prescribed authority.

Explanation.—When the persons employed upon or in any factory or mine or industrial establishment are part only of a staff employed under the same management, all such realisations may be credited to a common fund maintained for the staff as a whole provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

Deductions absence from duty.

9. (1) Deductions may be made under clause(b) of sub-section (2) of Section 7 only on account of the absence of an employed person from the place or places where by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

(2) The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made a larger proportion than the period for which he was absent bears to the total period, within such wage-period, during which by the terms of his employment, he was required to work:

Provided that, subject to any rules made in this behalf by Our Government if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

Explanation:—For the purpose of this section, an employed person shall be deemed to be absent from the place where he is required to work, if although present in such place, he refuses in pursuance of a stay-in strike or for any other cause which is not reasonable in the circumstances, to carry out his work.

Deductions for damage or loss.

10. (1) A deduction under clause (c) of sub-section (3 of Section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person and shall not be made until the employed person has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.

(2) All such deductions and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under Section 3 in such form as may be prescribed.

Deductions for services rendered.

11. A deduction under clause (d) or clause (e) of sub-section (2) of Section 7 shall not be made from the wages of an employed person unless the house-accommodation, amenity or service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house-accom modation, amenity or service supplied and, in the case of a deduction under the said clause (e) shall be subject to such conditions as Our Government may impose.

Deductions for recovery of advances

13. Deduction under clause (f) of sub section (2) of Section 7 shall be subject to the following conditions, namely:—

(*a*) recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage-period but no recovery shall be made of such advances given for travelling expenses ;

(*b*) recovery of advances of wages not already earned shall be subject to any rules made by Our Government regulating the extent to which such advances may be given and the instalments by which they may be recovered.

Deductions for payments to co-operative societies and insurance schemes.

13. Deductions under clause (*j*) of sub-section (2) of Section 7 shall be subject to such conditions as Our Government may impose.

14. (1) An Inspector of Factories appointed under sub-section (1) of Section 10 of the Travancore Factories Act, VIII of 1114, shall be an Inspector for the purposes of this Act, in respect of all factories within the local limits assigned to him.

Inspectors.

(2) *An Inspector of Mines appointed under Section VI of the Travancore Mines and Minerals Act (Act III of 1103) shall be the Inspector for the purposes of this Act in respect of mines.*

(3) Our Government may, by notification in Our Government Gazette, appoint such other persons as it thinks fit to be Inspectors for the purposes of this Act, and may define the local limits within which and the class of factories, mines and industrial establishments in respect of which they shall exercise their functions.

(4) An Inspector may, at all reasonable hours, enter on any premises, and make such examination of any register or document relating to the calculation or payment of wages and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Act.

(5) Every Inspector shall be deemed to be a public servant within the meaning of the Travancore Penal Code.

15. (1) Our Government may, by notification in Our Government Gazette, appoint any Commissioner for Workmen's Compensation or other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages of persons employed or paid in that area.

Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims.

(2) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act, or any other person acting with the permission of the authority appointed under sub-section (1), may apply to such authority for a direction under sub-section (3):

Provided that every such application shall be presented within six months from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be:

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the authority that he has sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained the authority shall hear the applicant and the employer or other person responsible for the payment of wages under Section 3, or give them an opportunity of being heard, and,after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person, of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding ten rupees in the latter:

Provided that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to—

(a) a *bonafide* error or *bonafide* dispute as to the amount payable to the employed person, or

(b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable deligence, to make prompt payment, or

(c) the failure of the employed person to apply for or accept payment.

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, the authority may direct that a penalty not exceeding fifty rupees be paid to the employer or other person responsible for the payment of wages by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered—

(a) if the authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate, and

(b) if the authority is not a Magistrate, *by any Magistrate* to whom the authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

Single application in respect of claims from unpaid group.

16. (1) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if their wages for the same wage-period or periods have remained unpaid after the day fixed by Section 5.

(2) A single application may be presented under Section 15 on behalf or in respect of any number of employed persons belonging to the same unpaid group, and in such case the maximum compensation that may be awarded under sub-section (3) of Section 15 shall be ten rupees per head.

(3) The authority may deal with any number of separate pending applications, presented under Section 15 in respect of persons belonging to the same unpaid group, as a single application presented under sub-section (2) of this section, and the provisions of that sub-section shall apply accordingly.

Appeal.

17. (1) An appeal against a direction made under sub-section (3) or sub-section (4) of Section 15 may be preferred, within thirty days of the date on which the direction was made before the District Court—

(a) by the employer or other person responsible for the payment of wages under Section 3, if the total sum directed to be paid by way of wages and compensation exceeds three hundred rupees, or

(b) by an employed person, if the total amount of wages claimed to have been withheld from him or from the unpaid group to which he belonged exceeds fifty rupees, or

(c) by any person directed to pay a penalty under sub-section (4) of Section 15.

(2) Save as provided in sub-section (1), any direction made under sub-section (3) or sub-section (4) of Section 15 shall be final.

Powers of authorities appointed under Section 15.

18. Every authority appointed under sub-section (1) of Section 15 shall have all the powers of a Civil Court under the Code of Civil Procedure, 1100 for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of Section 173 and of Chapter XXXIV of the Code of Criminal Procedure.

Power to recover from employer in certain cases.

19. When the authority referred to in Section 15 or the Court referred to in Section 17 is unable to recover from any person (other than an employer) responsible under Section 3 for the payment of wages any amount directed by such authority under Section 15 or Section 17 to be paid by such person, the authority shall recover the amount from the employer of the employed person concerned.

20. (1) Whoever being responsible for the payment of wages to an employed person contravenes any of the provisions of any of the following sections, namely Section 5 and Sections 7 to 13 both inclusive shall be punishable with fine which may extend to five-hundred rupees.

Penalty for offences under the Act

(2) Whoever contravenes the provisions of Section 4, Section 6 or Section 24 shall be punishable with fine which may extend to two hundred rupees.

21. (1) No Court shall take cognizance of a complaint against any person for an offence under sub-section (1) of Section 20 unless an application in respect of the facts constituting the offence has been presented under Section 15 and has been granted wholly or in part and the authority empowered under the latter section or the Appellate Court granting such application has sanctioned the making of the complaint.

Procedure in trial of offences.

(2) Before sanctioning the making of a complaint against any person for an offence under sub-section (1) of Section 20 the authority empowered under Section 15 or the Appellate Court, as the case may be, shall give such person an opportunity of showing cause against the granting of such sanction, and the sanction shall not be granted if such person satisfies the authority or Court that his default was due to—

(a) a *bonafide* error or *bonafide* dispute as to the amount payable to the employed person, or

(b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or

(c) the failure of the employed person to apply for or accept payment.

(3) No court shall take cognizance of a contravention of Section 4 or of Section 6 or of a contravention of any rule made under Section 25 except on a complaint made by or with the sanction of an Inspector under this Act.

(4) In imposing any fine for an offence under sub-section (1) of Section 20 the court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under Section 15.

22. No Court shall entertain any suit for the recovery of wages or of any deduction from wages in so far as the sum so claimed—

Bar of suits.

(*a*) forms the subject of an application under Section 15 which has been presented by the plaintiff and which is pending before the authority appointed under that section or of an appeal under Section 17; or

(*b*) has formed the subject of a direction under Section 15 in favour of the plaintiff; or

(*c*) has been adjudged, in any proceeding under Section 15, not to be owed to the plaintiff; or

(*d*) could have been recovered by an application under Section 15.

Contracting out.

23. Any contract or agreement, whether made before or after the commencement of this Act, whereby an employed person relinquishes any right conferred by this Act shall be null and void in so far as it purports to deprive him of such right.

Display by notice of abstracts of the Act.

24. The person responsible for the payment of wages to persons employed in a factory or mine shall cause to be displayed in such factory or mine as the case may be a notice containing such abstracts of this Act and of the rules made thereunder in English and in the language of the majority of the persons employed in the factory or mine, as may be prescribed.

Rule-making power.

25. (1) Our Government may make rules to regulate the procedure to be followed by the authorities and Courts referred to in Sections15 and 17.

(2) Our Government may, by notification in Our Government Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(3) In particular and without prejudice to the generality of the foregoing power, rules made under sub-section (2) may—

(*a*) require the maintenance of such records, registers, returns and notices as are necessary for the enforcement of the Act and prescribe the form thereof;

(*b*) require the display in a conspicuous place on premises where employment is carried on of notices specifying rates of wages payable to persons employed on such premises;

(*c*) provide for the regular inspection of the weights, measures and weighing machines used by employers in checking or ascertaining the wages of persons employed by them;

(*d*) prescribe the manner of giving notice of the days on which wages will be paid;

(*e*) prescribe the authority competent to approve under sub-section (1) of Section 8 acts and omissions in respect of which fines may be imposed;

(*f*) prescribe the procedure for the imposition of fines under Section 8 and for the making of the deductions referred to in Section 10;

(*g*) prescribe the conditions subject to which deductions may be made under the proviso to sub-section (2) of Section 9;

(*h*) prescribe the authority competent to approve the purposes on which the proceeds of fines shall be expended;

(*i*) prescribe the extent to which advances may be made and the instalments by which they may be required with reference to clause (*b*) of Section 12;

(*j*) regulate the scales of costs which may be allowed in proceedings under this Act;

(*k*) prescribe the amount of court-fees payable in respect of any proceedings under this Act; and

(*l*) prescribe the abstracts to be contained in the notices required by Section 24.

(4) In making any rule under this section Our Government may provide that a contravention of the rule shall be punishable with fine which may extend to two hundred rupees.

(5) All rules made under this section shall be subject to the condition of previous publication, and the date to be specified under clause (*c*) of Section 6 of the Travancore General Clauses Act of 1072, shall not be less than three months from the date on which the draft of the proposed rules was published.

Office of the Secretary to the
Sri Mulam Assembly,
Trivandrum, 19th October 1940.

A. GUNAMONY,
Secretary to the
Sri Mulam Assembly.

Annexure III.

R. O. C. No. 937 of 40/Legis.

The following Bill, together with the Statement of Objects and Reasons, is published as ordered by the Dewan, under Rule 31 of the Travancore Legislative Rules.

(By order)

Huzur Cutcherry,
Trivandrum, 11th January 1941.

M. K. NILAKANTA AIYAR,
Chief Secretary to Government.

THE TRAVANCORE (KEROSENE) EXCISE DUTY BILL.

Whereas it is expedient to impose an Excise Duty on kerosene; It is hereby enacted as follows—

Short title, extent and commencement.

1. (i) This Act may be called the Travancore (Kerosene) Excise Duty Act.

(ii) It extends to the whole of Travancore.

(iii) It shall come into force on such date as Our Government may notify in that behalf in Our Government Gazette.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context:—

(*a*) "Kerosene" means any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbon) which—

(i) is made from petroleum as defined in Section 2 of the Travancore Petroleum Act, 1115, and

(ii) is intended to be or is ordinarily, used in liquid form for purposes of illumination or for producing power

(*b*) "Manufactory" means any place where kerosene is refined or otherwise prepared.

Imposition of Excise duty on kerosene manufactured in Travancore.

3. (i) There shall be levied and collected at every manufactory in Travancore on all kerosene produced in such manufactory a duty at such rates not exceeding eight annas on each Imperial gallon, as Our Government may specify from time to time by notification in Our Government Gazette.

Explanation.—Kerosene is said to be produced within the meaning of this section, when it is issued out of the premises of the manufactory.

(ii) If any duty payable under sub-section (i) is not paid within the time fixed by a notice issued in accordance with any rules made under this Act, the authority to which such duty is payable may, in lieu thereof, recover any sum not exceeding four times the amount of

the duty so unpaid, which such authority may in its discretion think it reasonable to require.

(iii) Any sum recoverable under this section shall be recoverable under the Revenue Recovery Act (Act I of 1063) as if it were an arrear of land revenue and shall be recoverable in addition to and not in substitution for any other penalty incurred under this act.

Issue of kerosene after commencement of Act.

4. (i) After the commencement of this Act, no person shall issue any kerosene out of the premises of any manufactory except in accordance with the provisions of rules made under this Act in that behalf, or, until such rules are made, in accordance with the general or special orders of Our Government.

(ii) Whoever contravenes the provisions of sub-section (i) shall be punishable with fine which may extend to rupees one thousand, or to a sum four times the amount of the duty payable on any kerosene so issued, whichever is greater.

Application of the Travancore Sea Customs Act V of 1088 and rule-making power.

5. (1) Our Government may by notification in Our Government Gazette, declare that any of the provisions of the Travancore Sea Customs Act V of 1088 relating to the levy of and exemption from Customs duties, draw-back of duty, warehousing, offences and penalties confiscation, and the procedure relating to offences and appeals shall, with such modifications and alterations as it may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty on kerosene imposed by section 3, and may further, for the purpose of providing for the assessment and collection of the said duty and for the purposes ancillary thereto, make rules—

(i) imposing on owners of manufactories the duty of furnishing returns and keeping records and books, prescribing the forms of such returns, records and books and the particulars to be contained therein respectively and the manner in which the same are to be verified and all such other conditions thereof as may be necessary;

(ii) providing for the regulation of the issue of kerosene out of manufactories, the assessment of the duty and the issue of notices requiring payment and for the recovery of unpaid duty;

(iii) providing for the inspection of manufactories and for the taking of samples, and for the making of tests of any substance produced therein; and

(iv) for generally carrying into effect the purposes herein-before specified.

(2) In making any rule under the rule-making power hereinbefore conferred, Our Government may declare that any breach thereof shall be punishable with fine which may extend to rupees five hundred

STATEMENT OF OBJECTS AND REASONS.

An excise duty is levied in British India on kerosene oil manufactured there. There is also an import duty on all kerosene imported into British India. Crude oil is found on refinement to yield kerosene oil of marketable quality and as the duty on crude oil is comparatively lighter, kerosene oil so manufactured can be sold at a profit. There are other substances also from which kerosene oil may be manufactured. The absence of a law enabling Government to levy an excise duty on locally manufactured kerosene oil is likely to be taken advantage of by people within and without Travancore for purposes of profit. it is necessary to regulate this. Hence the Bill. It enables Government to levy an excise duty on all kerosene manufactured in the State.

S. Krishna Pillai,
Legal Remembrancer to Government.

Annexure IV.

R. O. C. No. 73 of 41/Legis.

The following Bill, together with the Statement of Objects and Reasons, is published as ordered by the Dewan under Rule 31 of the Travancore Legislative Rules.

Huzur Cutcherry, Trivandrum, 20th January 1941. (By Order) M. K. NILAKANTA AIYAR, *Chief Secretary to Government.*

THE TRAVANCORE POLICE ACT (AMENDMENT) BILL.

Preamble.

Whereas it is expedient further to amend the Travancore Police Act of 1095 (Act IV of 1095) as amended by Act IX of 1108 for a certain purpose, It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Travancore Police (Amendment) Act, 111......

(2) It extends in the first instance to the City of Trivandrum, and thereafter to such other places in the State as may from time to time be notified in this behalf by Our Government in Our Government Gazette.

(3) It shall come into force at once.

Insertion of a new section 37—A in Act IV of 1095.

2. After Section 37 of the Travancore Police Act of 1095, (Act IV of 1095) as amended by Act IX of 1108, the following new Section shall be added namely:—

Pawn-brokers etc., to report stolen property if tendered for pawn or for sale.

"37—A. Any officer of police may deliver to any pawn-broker, dealer in second-hand property or worker in metals a list of any property believed to have been stolen, and thereupon it shall be the duty of such pawn-broker, dealer or worker as aforesaid, upon any article answering the description of any of the property set forth in any such list being offered him in pawn, for sale or otherwise, to inquire the name and address of the party offering such article, to seize and detain the article, and forthwith to communicate to the nearest Police Station the fact of such article having been offered and such name and address as may be given by the party offering it. Any pawn-broker, dealer or worker as aforesaid failing to comply with the requirements of this section without reasonable excuse shall be liable on conviction to fine not exceeding fifty rupees for every such offence. Such pawn-broker dealer or worker as aforesaid may also detain any person offering such article as aforesaid pending the arrival of the Police."

STATEMENT OF OBJECTS AND REASONS.

Pawn-brokers and workers in metal are mainly the class of persons to whom stolen valuables are ordinarily taken for purposes of disposal. It will be to the public advantage if a duty is cast on such persons and they are empowered under proper police direction to seize such articles and if necessary detain the person in possession of the article pending further action by the police. In many of the important cities in British India such provisions are in force. It is proposed to apply the provision in the first instance only to the City of Trivandrum, and thereafter to extend it to other specified places if and when so decided by Government. The Bill is intended to carry out the above purposes.

PUTHUPALLY S. KRISHNA PILLAI,
Legal Remembrancer.

Annexure V.

R. O. C. No. 237 of 41/Legis.

The following Bill, together with the Statement of Objects and Reasons is published as ordered by the Dewan, under Rule 31 of the Travancore Legislative Rules.

(By order)

Huzur Cutcherry,
Trivandrum, 19th February 1941.

M. K. NILAKANTA AIYAR,
Chief Secretary to Government.

THE TRAVANCORE CIVIL PROCEDURE CODE AMENDMENT BILL.

A BILL FURTHER TO AMEND THE CODE OF CIVIL PROCEDURE 1100.

Premble.

Whereas it is expedient further to amend the Code of Civil Procedure 1100 (Act VIII of 1100) as amended by Acts X of 1100 III of 1101 and II of 1116 for certain purposes: It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Civil Procedure Code Amendment Act 111—

(2) It extends to the whole of Travancore.

(3) It shall come into force at once.

Amendment of Section 35, Act VIII of 1100

2. For Section 35 of the Code of Civil Procedure 1100 (Act VIII of 1100) as amended by Acts X of 1100, III of 1101 and II of 1116 (hereinafter referred to as the said Code) the following shall be substituted namely—

Courts by which decree may be executed

"35. A decree may be executed by the Court which passed it or by the Court or Courts to which it is sent for execution or subject to such conditions and limitations, if any as may be prescribed, by more than one of such Courts at one and the same time.

Amendment of Section 36, Act VIII of 1100.

3. In Section 36 of the said Code the following shall be added as sub-sections (3) and (4) namely:—

"(3) The Court to which a decree is sent for execution may on the application of the decree-holder and for any of the reasons mentioned in sub-section (1) send it for execution to any other Court. An order so passed shall be communicated without delay to the Court which passed the decree.

(4) A Court to which a decree has been ordered to be sent for execution may for sufficient reason execute the decree pending receipt of the necessary papers on receipt of an application for execution supported by an affidavit of non-satisfaction sworn to by the decree-holder. But no money realised by such execution shall without the consent of the judgment-debtor be paid over to the judgment-creditor until receipt of the necessary papers."

4. In Section 38-A of the said Code, in clause (*a*) of sub-section (1), between the words "His Majesty the King Emperor of India" and the words "may be executed in Travancore" the following words shall be inserted, namely:—

Amendment of Section 38-A. Act VIII of 110.

"or of the High Court of Judicature at Rangoon, all the District Courts in Burma, or the Supreme Court of the Colony of Aden."

5 In the Explanation to Section 40 of the said Code, the following words shall be added after substituting a comma for the full stop, namely.—

Amendment of Section 40, Act V II of 1100.

"but a defendant against whom the plaintiff has abandoned his claim and a person in regard to whom an order striking him off from the array of parties as an unnecessary party has become final, are not parties to the suit."

6. In Section 43, sub-section (1) of the said Code, for the words "which passed it" the words "executing the decree" shall be substituted

Amendment of Section 43 Act VIII of 1100.

7. In Section 52 Sub-section (1), proviso of the said Code.

Amendment of section 52 Act. VIII 1100.

(a) in clause (h), for the brackets and words "(being less than salary)", the following shall be substituted, namely:— "to the extent of a moiety of the salary or a sum of fourteen rupees per mensem whichever is larger:"

(b) the following shall be added as a new clause, namely.— "(o) grants-in-aid by Government to educational institutions except in execution of a decree for recovery of a debt incurred for the establishment or management of the institution," and

(c) in the Explanation, for the word brackets and letter "and (k)," the word, brackets and letters "(k) and (o)" shall be substituted.

8. For Section 109 of the said Code the following shall be substituted, namely.—

Amendment of section 109, Act VIII of 1100.

"109. Where any person has become liable as surety, or has given any property as security, in accordance with the law relating to transfer of property for the time being in force,

Enforcement of liability of surety.

(a) for the performance of any decree or any part thereof, or

(b) for the restitution of any property taken in execution of a decree, or

(c) for the payment of any money, or for the fulfilment of any condition imposed on any person, under an order of the Court in any suit or in any proceeding consequent thereon, the decree or order may be executed against him, or,

as the case may be, the security may be enforced, to the extent to which he has rendered himself liable, in the manner herein provided for the execution of decrees, and such person shall for the purposes of appeal be deemed a party within the meaning of Section 40;

Provided that such notice as the Court in each case thinks sufficient has been given to such person; and

Provided further that in the case of any property having been given as security the Court may, if it thinks fit to do so, direct that the enforcement of the security shall be by a separate suit."

9. Section 116 of the said Code shall be re-numbered as sub-section (1) of Section 116 and the following shall be added as sub-section (2) thereof, namely:—

Amendment of section 116, Act VIII of 1100.

"(2) The Court to which a decree is sent for execution may on the application of any of the parties to the decree correct any clerical or arithmetical mistakes or errors arising therein by accidental slip or omission;

Provided that such correction shall be made only after giving notice to the opposite party, and

Provided also that the Court shall forthwith intimate the correction to the Court which passed the decree."

STATEMENT OF OBJECTS AND REASONS.

Amongst the recommendations of the Laws Delays Commissioner, there are certain proposals to amend certain sections of the Code of Civil Procedure, 1100 with which the High Court have expressed concurrence. It has also been found necessary in the public interests to exempt

from attachment grants-in-aid by Government to educational institutions. Reciprocal arrangements between this State, and Burma and Aden, regarding execution of decrees have also to be provided for. The Bill proposes the necessary amendments in the Code.

NOTES ON CLAUSES.

Clause 2. This proposes an amendment to Section 35 of the Code and is designed to make clear that the execution of a decree may be allowed in more courts than one at the same time.

Clause 3. This proposes certain amendments to Section 36. The section as it stands at present empowers only the court which passed a decree to send it for execution to another Court. This occasions delay and unnecessary expenditure. To minimise this, sub-section 3 is proposed. The amendment will confer power on the transferee court to transfer the decree to some other court for one or other of the reasons mentioned in sub-section (1). Sub-section (4) is designed to counteract the evasive methods of judgment-debtors and for expediting execution of money decrees.

Clause 4: This amendment is necessitated by the separation of Burma from the rest of British India. It is also found necessary to enter into reciprocal arrangements with the colony of Aden. The necessary provision is therefore made.

Clause 5. The existing Explanation is adopted from the corresponding provision in the British Indian Civil Procedure Code where it was introduced as a result of conflict in the decisions of the several British Indian High Courts. The question whether when a plaintiff withdraws his claim against a defendant, such defendant is "a party to the suit" is open to doubt. Similarly in the case of parties whose names are ordered to be struck off. The amendment is proposed to make the position clear.

Clause 6: This proposes an amendment to Section 43 (1) of the Code. The section, as it stands at present, empowers only the court that passed a decree to order it to be executed against the legal representatives of a deceased judgment-debtor. The amendment will confer the power on all courts executing the decree, whether it be the court that passed the decree or the court to which the decree has been sent for execution,

Clause 7: This proposes amendments to clause (h) of the proviso to Section 52, sub-section (1) of the Code and also adds a new clause as clause (o). The salary of a public officer or a servant of a local authority is exempt from attachment in execution of decrees, up to an extent of Rs, 14 a month or of one-half of the salary, whichever is larger. See clause (i) of the proviso, The allowance of the officer or servant while absent from duty is also exempt, if it is "less than salary". See clause (h) This makes the *whole* of the allowances exempt even if it is larger in amount, than one-half of the salary, Under the proposed amendment, the exemption in respect of allowances would not be larger,

in any case, than that in respect of the salary. Large amounts are given as grants-in-aid by Government to educational institutions in the State. For debts totally unconnected with such institutions, these amounts are often placed under attachment. This prevents the grants from being utilised for the purposes for which they are intended. Hence in public interests, it is proposed to exempt such grants-in-aid, subject however to certain specified restrictions.

Clause 8: This proposes an amendment to Section 109. As the section stands at present, if a surety gives a charge upon his property, the liability of the property cannot be enforced in execution of the decree or order, even though his personal liability may be so enforced. The amendment would allow the liability of the property also to be enforced through the execution court; a discretion is, however given to the court to refer the party to a separate suit, if such a course is considered desirable.

Clause 9: This proposes an amendment to Section 116. The words "the Court" occurring in the existing section has been interpreted as the court which passed such judgments, decrees, or orders. It has often been found that mistakes in decrees are discovered only while executing them and where a decree is executed by a court to which it is transferred for execution, such execution has to be postponed till the court which passed the decree corrects it. This occasions unnecessary delay. By the proposed amendment power is sought to be given to the court executing the decree to correct such mistakes in decrees.

Puthupally S, Krishna Pillai,
Legal Remembrancer.

Annexure VI.

R. O. C. No. 281 of 41/Legis.

The following Bill, together with the Statement of Objects and Reasons, is published as ordered by the Dewan, under Rule 31 of the Travancore Legislative Rules.

Huzur Cutcherry, (By order) M. K. NILAKANTA AIYAR,
Trivandrum, 27th February 1941. *Chief Secretary to Government.*

THE TRAVANCORE MOTOR VEHICLES BILL.

An Act to consolidate and amend the law relating to motor vehicles.

Preamble. Whereas it is expedient to consolidate and amend the law relating to motor vehicles in Travancore; It is hereby enacted as follows:

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement. 1. (1) This Act may be called the Travancore Motor Vehicles Act, 111—.

(2) It extends to the whole of Travancore.

(3) It shall come into force on such date as Our Government may, by notification in Our Government Gazette appoint, but Chapter VII shall not have effect until after a period of three years from the date of commencement of the Act.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "axle weight" means in relation to an axle of a vehicle the total weight transmitted by the several wheels attached to that axle to the surface whereon the vehicle rests;

(2) "certificate of registration" means the certificate issued by the registering authority to the effect that a motor vehicle has been duly registered in accordance with the provisions of Chapter III;

(3) "contract carriage" means a motor vehicle which carries a passenger or passengers for hire or reward under a contract expressed or implied for the use of the vehicle as a whole at or for a fixed or agreed rate or sum and from one point to another without stopping to pick up or set down along the line of route passengers not included in the contract; and includes a motor cab notwithstanding that the passengers may pay separate fares;

Explanation—"Contract carriage" does not include a motor vehicle, possession of which has been temporarily transferred in

accordance with an express agreement of hire for use as a private vehicle and which is used in accordance with the terms of such agreement;

(4) "delivery van" means any goods vehicle the registered laden weight of which does not exceed 5000 pounds avoirdupois;

(5) "driver" includes, where a separate person acts as steersman of a motor vehicle, that person as well as any other person engaged in the driving of the vehicle;

(6) "fares" includes sums payable for a season ticket or in respect of the hire of a contract carriage;

(7) "goods" includes live-stock, and any thing (other than equipment ordinarily used with the vehicle) carried by a vehicle except living persons, but does not include luggage or personal effects carried in a motor car, or in a trailer attached to a motor car or the personal luggage of passengers travelling in the vehicle;

(8) "goods vehicle" means any motor vehicle constructed or adapted for use for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods solely or in addition to passengers;

(9) "heavy transport vehicle" means a transport vehicle the registered axle weight of which exceeds 10,600 pounds avoirdupois, or the registered laden weight of which exceeds 14,500 pounds avoirdupois;

(10) "invalid carriage" means a motor vehicle the unladen weight of which does not exceed five hundred weights, specially designed and constructed, and not merely adapted, for the use of a Person suffering from some physical defect or disability, and used solely by or for such a person;

(11) "license" means any document issued by the licensing authority authorising the person specified therein to drive a motor vehicle or a motor vehicle of any specified class or description;

(12) "licensing authority" means an authority empowered to grant licenses, appointed by Our Government;

(13) "light transport vehicle" means any public service vehicle other than a motor cab, or any goods vehicle other than a heavy transport vehicle or a delivery van;

(14) "locomotive" means a motor vehicle which is itself not constructed to carry any load (other than equipment used for the purpose of propulsion), the unladen weight of which exceeds 16,000 pounds avoirdupois; but does not include a road-roller.

(15) "motor cab" means any motor vehicle constructed, adapted or used to carry not more than six passengers excluding the driver, for hire or reward;

(16) "motor car" means any motor vehicle other than a transport vehicle, locomotive, road-roller, tractor, motor-cycle or invalid carriage ;

(17) "motor cycle" means a motor vehicle, other than an invalid carriage, with less than four wheels, the unladen weight of which, inclusive of any side-car attached to the vehicle, does not exceed 900 pounds avoirdupois;

(18) "motor vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer ; but does not include a vehicle running upon fixed rails or used solely upon the premises of the owner ;

(19) "owner" means, where the person, in possession of a motor vehicle is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire purchase agreement, the person in possession of the vehicle under that agreement :

(20) "permit" means the document issued by the prescribed authority authorising the use of a transport vehicle as a contract carriage, or stage carriage, or authorising the owner as a private carrier or public carrier to use such vehicle ;

(21) "prescribed" means prescribed by rules made under this Act ;

(22) "private carrier" means an owner of a transport vehicle other than a public carrier who uses that vehicle solely for the carriage of goods which are his property or the carriage of which is necessary for the purposes of his business not being a business of providing transport, or who uses the vehicle for any of the purposes specified in sub-section (2) of Section 40 ;

(23) "public carrier" means an owner of a transport vehicle who transports or undertakes to transport goods, or any class of goods, for another person at any time and in any public place for hire or reward, whether in pursuance of the terms of a contract or agreement or otherwise, and includes any person, body, association or company engaged in the business of carrying the goods of persons associated with that person, body, association or company for the purpose of having their goods transported ;

(24) "public place" means a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a stage carriage ;

(25) "public service vehicle" means any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward, and includes a motor cab, contract carriage, and stage carriage;

(26) "qualified medical practitioner" means a medical practitioner having the prescribed qualifications;

(27) "registered axle weight" means in respect of any vehicle the axle weight certified and registered by the registering authority as permissible for, that vehicle;

(28) "registered laden weight" means in respect of any vehicle the total weight of the vehicle and load certified and registered by the registering authority as permissible for that vehicle;

(29) "registering authority" means an authority empowered to register motor vehicles under Chapter III;

(30) "stage carriage" means a motor vehicle carrying or adapted to carry more than six persons excluding the driver which carries passengers for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey;

(31) "tractor" means a motor vehicle which is not itself constructed to carry any load (other than equipment used for the purpose of propulsion) the unladen weight of which does not exceed 16,000 pounds avoirdupois; but excludes a road-roller;

(32) "traffic signs" includes all signals, warning sign posts, direction posts, or other devices for the information, guidance or direction of drivers of motor vehicles;

(33) "trailer" means any vehicle other than a side-car drawn or intended to be drawn by a motor vehicle;

(34) "transport authority" means an authority constituted or appointed and empowered by Our Government to exercise all or any of the powers of a transport authority under this Act;

(35) "transport vehicle" means a public service vehicle, a goods vehicle, a locomotive or a tractor other than a locomotive or tractor used solely for agricultural purposes;

(36) "unladen weight" means the weight of a vehicle or trailer including all equipment ordinarily used with the vehicles or trailer when working, but excluding the weight of a driver or attendant; and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative part or body;

(37) "weight" means the total weight transmitted for the time being by the wheels of a vehicle to the surface on which the vehicle rests.

CHAPTER II.

Licensing of Drivers of Motor Vehicles.

Necessity for driving license.

3. (1) No person shall drive a motor vehicle in any public place unless he holds an effective licence issued to himself authorising him to drive the vehicle; and no person shall so drive a motor vehicle as a paid employee or shall so drive a public service vehicle unless his licence specifically entitles him so to do.

(2) Our Government may prescribe the conditions subject to which sub-section (1) shall not apply to a person receiving instruction in driving a motor vehicle.

(3) Nothing contained in sub-section (1) shall for a period of twelve months after the commencement of this Act invalidate a licence to drive a motor vehicle issued under the provisions of the Travancore Motor Vehicles Act of 1094.

Age limit in connection with driving of motor vehicles.

4. (1) No person under the age of eighteen years shall drive a motor vehicle in any public place.

(2) No person under the age of twenty years shall drive a transport vehicle in any public place.

(3) Nothing contained in sub-section (1) or sub-section (2) shall prevent any person who, before the commencement of this Act, possessed a licence to drive a motor vehicle from obtaining a license to drive a motor vehicle of the same class.

Responsibility of owners of motor vehicles for contraventions of sections 3 and 4.

5. No owner or person in charge of a motor vehicle shall cause or permit any person who does not satisfy the provisions of Sections 3 and 4 to drive the vehicle.

Restrictions on the holding of licences.

6. (1) No person shall, while he holds any licence for the time being in force, hold any other licence to drive a motor vehicle.

(2) No holder of a licence shall permit it to be used by any other person.

(3) Nothing in this section shall prevent the licensing authority from adding to the classes of vehicles which the licence authorises the holder to drive.

7. (1) Any person who is not disqualified under Section 4 for driving a motor vehicle and who is not for the time being disqualified for holding or obtaining a licence may apply to the licensing authority for the issue to him of a licence.

Grant of licence.

(2) Every application under sub-section (1) shall be in Form A as set forth in the First Schedule, shall be signed by, or bear the thumb impression of the applicant in two places, and shall contain the information required by the form.

(3) Where the application is for a licence to drive as a paid employee or to drive a transport vehicle, or where in any other case the licensing authority for reasons to be stated in writing so requires the application shall be accompanied by a medical certificate in Form C as set forth in the First Schedule, signed by a qualified medical practitioner.

(4) Every application for a licence shall be accompanied by three clear copies of a recent photograph of the applicant.

(5) If, from the application or from the medical certificate referred to in sub-section (3), it appears that the applicant is suffering from any disease or disability specified in the Second Schedule or any other disease or disability which is likely to cause the driving by him of a motor vehicle of the class which he would be authorised by the licence applied for to drive to be a source of danger to the public or to the passengers, the licensing authority shall refuse to issue the licence :

Provided that—

(a) a licence limited to driving an invalid carriage may be issued to the applicant, if the licensing authority is satisfied that he is fit to drive such a carriage,

(b) the applicant may, except where he suffers from a disease or disability specified in the Second Schedule, claim to be subjected to a. test of his fitness or ability to drive a motor vehicle of a particular construction or design, and if he passes such test to the satisfaction of the licensing authority and is not otherwise disqualified, the licensing authority shall grant him a licence to drive such motor vehicle as the licensing authority may specify in the license.

(6) No licence shall be issued to any applicant unless—

(a) he passes to the satisfaction of the licensing authority the test of competence to drive specified in the Third Schedule, or

(b) where the application is made within twelve months from the commencement of this Act, he satisfies the licensing authority that he was at the commencement of this Act the holder of a current licence granted under the provisions of the Travancore

Motor Vehicles Act of 1094, entitling him to drive a vehicle of the class or description which he would be entitled to drive under the licence applied for :

Provided that, where the application is for a licence to drive a motor cycle or a motor car, the licensing authority shall exempt the applicant from Part I of the test specified in the Third Schedule if the licensing authority is satisfied that the applicant has previously held a licence to drive and has had not less than twelve months' recent experience of driving a motor cycle or a motor car, as the case may be:

Provided further that where the application is for a licence to drive transport vehicle owned by or on behalf of Our Government, the licensing authority shall exempt the applicant from Part I of the test specified in the Third Schedule, if the applicant possesses a driving certificate issued by the prescribed authority.

(7) The test of competence to drive shall be carried out in a vehicle of the type to which the application refers, and, for the purposes of Part I of the test,—

(a) a person who passes the test in driving a motor car or a motor cab or a delivery van shall be deemed to have passed the test for all of these vehicles ;

(b) a person who passes the test in driving a light transport vehicle shall be deemed also to have passed the test in driving the vehicles referred to in clause (a) ; and

(c) a person who passes the test in driving a heavy transport vehicle shall be deemed also to have passed the test in driving any motor vehicle other than a motor cycle.

(8) When an application has been duly made to the licensing authority and the applicant has satisfied such authority of his physical fitness and of his competence to drive and has paid to the authority a fee of five rupees, the licensing authority shall grant the applicant a licence unless the applicant is disqualified under Section 4 for driving a motor vehicle or is for the time being disqualified for holding or obtaining a licence :

Provided that the fee for a licence issued in accordance with the provisions of clause (b) of sub-section (6) shall be three rupees only.

Form and contents of licence.

8. (1) Every licence, shall be in Form D as set forth in the First Schedule and shall have affixed thereto one of the signatures or thumb impressions given on the form of application for the licence and one of the photographs referred in to sub-section (4) of Section 7.

(2) A licence shall specify whether the holder is entitled to drive as a paid employee and whether he is entitled to drive a public service vehicle and shall further be expressed as entitling the holder to drive a motor vehicle of one or more of the following classes, namely :—

(a) motor cycle, (b) motor car, (c) motor cab, (d) delivery van, (e) light transport vehicle, (f) heavy transport vehicle, (g) locomotive, (h) tractor, (i) road-roller, (j) invalid carriage, or (k) motor vehicle of a specified description.

Extent of validity of licence.

9. (1) Subject to any rules made by Our Government in this behalf and subject, in any other case, to the provisions of sub-section (2), a licence to drive a motor vehicle issued by a competent authority in British India or in any Indian State or in the French or Portuguese Settlements bounded by India shall, if the holder is ordinarily resident in British India or in the State or Settlement in which the licence was issued, be valid throughout Travancore as if it were a licence issued under this Act:

Provided that such holder is not disqualified under any of the provisions of this Act for holding or obtaining a licence in Travancore.

(2) If Our Government are satisfied that licences issued in Travancore under this Act are not effective in British India, or any Indian State or French or Portuguese Settlements bounded by India, or are effective subject to unreasonable conditions or that like conditions and requirements to those imposed by this Act are not imposed in a reasonable degree upon the issue of licences in any place as aforesaid, Our Government may, by notification in Our Government Gazette, declare that licences generally or any particular class of licence issued in any such place shall not be valid in Travancore.

Currency of licences.

10. A licence issued under the foregoing sections shall, subject to the provisions contained in this Act as to the cancellation of licences and the disqualification of holders of licences for holding or obtaining licences, be effective without renewal for a period of twelve months only from the date of issue or last renewal.

Renewal of licences.

11. (1) The licensing authority or other prescribed authority may on application made to it renew a licence issued under the provisions of this Act.

(2) An application for the renewal of a licence shall be made in Form B as set forth in the First Schedule and shall contain the declaration required by that form.

(3) The fee payable for the renewal of a licence shall be three rupees, if the application for renewal is made previous to, or not more than fifteen days subsequent to, the date on which the licence is due to expire and shall be five rupees in any other case, unless the licensing authority or other prescribed authority, as the case may be, is satisfied that the holder was prevented by good cause from applying for the renewal of the licence within fifteen days after its expiry.

(4) When the authority renewing the licence is not the authority which issued the licence, it shall intimate the fact of renewal to the authority which issued the licence.

Revocation of licence on grounds of disease or disability.

12. Notwithstanding anything contained in the foregoing sections, the licensing authority may at any time revoke a license issued by it, or may require, as a condition of continuing to hold such licence, the holder thereof to furnish a fresh medical certficate in Form C as set forth in the First Schedule signed as required by sub-section (3) of Section 7, if the licensing authority has reasonable grounds to believe that the holder of the licence is, by virtue of any disease or disability, unfit to drive a motor vehicle.

Orders refusing or revoking licences and appeals therefrom.

13. (1) Where the licensing authority refuses to issue or revokes or refuses to renew any licence, it shall do so by an order communicated to the applicant or the holder, as the case may be, giving the reasons in writing for such refusal or revocation.

(2) Any person aggrieved by the refusal of the licensing authority to grant or renew a licence or by the revocation of a licence may, within thirty days of the service on him of the order of such refusal or revocation, appeal to Our Government who may suspend, modify or cancel such order.

(3) The order of a licencing authority shall, unless the appellate authority conditionally or unconditionally, directs otherwise, be in force pending the disposal of an appeal under sub-section (2).

Power of licensing authority to disqualify for holding a licence.

14. (1) If the licensing authority is satisfied after giving him an opportunity of being heard that any person—

(a) is a habitual criminal or a habitual drunkard, or

(b) is using or has used a motor vehicle in the commission of a cognisable offence, or

(c) has by his previous conduct as driver of a motor vehicle shown that his driving is likely to be attended with danger to the public,

it may, for reasons to be recorded in writing, make an order disqualifying that person for a specified period for holding or obtaining a licence.

(2) Upon the issue of any such order a person affected, if he is the holder of a licence shall forthwith surrender his licence to the licensing authority, if the licence has not already been surrendered, and the licensing authority shall keep it until the disqualification has expired or has been removed.

(3) Any person aggrieved by an order made by a licensing authority under this section may, within thirty days of the receipt of the order, appeal to Our Government and Our Government may suspend, modify or cancel such order.

Power of transport authority to disqualify.

15. (1) The transport authority may for reasons to be recorded in writing and subject to any prescribed conditions declare any person disqualified, for a specified period, for holding or obtaining a licence to drive a public service vehicle.

(2) Any person aggrieved by an order made under sub-section (1) may within thirty days of the receipt of intimation of such order appeal against the order to Our Government.

Power of Court to disqualify.

16. (1) Where a person is convicted of an offence under this Act, or of an offence in the commission of which a motor vehicle was used, the Court by which such person is convicted may, subject to the provisions of this section, in addition to imposing any other punishment authorised by law, declare the person so convicted to be disqualified, for such period as the Court may specify, for holding any licence or for holding a licence to drive a particular class or description of vehicle.

(2) A Court shall not order the disqualification of an offender convicted for the first or second time of an offence punishable under Section 110.

(3) A Court shall order the disqualification of an offender convicted of an offence punishable under Section 112, and such disqualification shall be for a period of not less than six months.

(4) A Court shall order the disqualification of an offender convicted of an offence against the provision of clause (c) of sub-section (1) of Section 83 or of Section 85, and such disqualification shall be for a period of not less than one month.

(5) A Court shall, unless for special reasons to be recorded in writing it thinks fit to order otherwise, order the disqualification of an offender—

(*a*) who having been convicted of an offence punishable under Section 111 is again convicted of an offence punishable under that section,

(*b*) who is convicted of an offence punishable under Section 115, or

(*c*) who is convicted of an offence punishable under Section 118;

Provided that the period of disqualification shall not exceed, in the cases referred to in clauses (*a*) and (*b*), two years, or, in the case referred to in clause (*c*), one year.

(6) A Court ordering the disqualification of an offender convicted of an offence punishable under Section 111 may direct that the offender shall, whether he has previously passed the test of competence to drive specified in the Third Schedule or not, remain disqualified until he has subsequent to the making of the order of disqualification passed that test to the satisfaction of the licensing authority.

(7) The Court to which an appeal lies from any conviction of an offence of the nature specified in sub-section (1) may set aside or vary any order of disqualification made by the Court below, and the Court to which appeals ordinarily lie from any Court may set aside or vary any order of disqualification made by that Court, notwithstanding that no appeal lies against the conviction in connection with which such order was made.

Effect of disqualification order.

17. (1) A person in respect of whom any disqualification order is made shall be debarred to the extent and for the period specified in such order from holding or obtaining a licence and the licence, if any, held by such person at the date of the order shall cease to be effective during such period.

(2) The operation of a disqualification order made under Section 16 shall not be suspended or postponed while an appeal is pending against such order or against the conviction as a result of which such order is made, unless the appellate Court so directs.

(3) Any person in respect of whom any disqualification order has been made may at any time after the expiry of six months from the date of the order apply to the Court or other authority by which the order was made, to remove the disqualification; and the Court or authority, as the case may be, may, having regard to all the circumstances, either remove or vary the order of disqualification:

Provided that where an application has been made under this section a second application thereunder shall not be entertained before the expiry of a further period of three months.

18. (1) The Court or authority making an order of disquailfication shall endorse or cause to be endorsed upon the licence, if any, held by the person disqualified particulars of the order of disqualification and of any conviction of an offence in respect of which an order of disqualification is made ; and particulars of any removal or variation of an order of disqualification made under sub-section (3) of Section 17 shall be similarly so endorsed.

Endorsement.

(2) A Court by which any person is convicted of an offence specified in the Fourth Schedule shall, whether or not an order of disqualification is made in respect of such conviction, endorse or cause to be endorsed particulars of such conviction on any licence held by the person convicted.

(3) Any person accused of an offence specified in the Fourth Schedule shall when attending the Court bring with him his licence if it is in his possession.

19. (1) An endorsement on any licence shall be transferred to any new or duplicate licence obtained by the holder thereof until the holder becomes entitled under the provisions of this section to have a licence issued to him free from endorsement.

Transfer of endorsement and issue of licence free from endorsement.

(2) Where a licence is required to be endorsed and the licence is at the time not in the possession of the Court or authority by which the endorsement is to be made then —

(*a*) if the person in respect of whom the endorsement is to be made is at the time the holder of a licence , he shall produce the licence to the Court or authority within five days, or such longer time as the Court or authority may fix, or

(*b*) if, not being then the holder of a licence, he subsequently obtains a licence, he shall within five days after obtaining the licence produce it to the Court or authority, and if the licence is not produced within the time specified it shall on the expiration of such time be of no effect until it is produced for the purpose of endorsement.

(3) A person whose licence has been endorsed shall, if during a continuous period of three years since the last endorsement was made no further order of endorsement has been made against him, be entitled, on surrendering his licence and on payment of a fee of five rupees, to receive a new licence free from all endorsements. If the endorsement was only in respect of exceeding a speed limit, he shall be entitled to have a clean licence issued on the expiration of one year from the date of the order :

Provided that in reckoning the said period of three years and one year, respectively, any period during which the said person was disqualified for holding or obtaining a licence shall be excluded.

(4) When a licence is endorsed by or an order of endorsement is made by any Court, the Court shall send particulars of the endorsement or order, as the case may be, to the authority by which the licence was last renewed and to the licensing authority which granted the licence.

(5) Where the holder of a licence is disqualified by the order of any Court for holding or obtaining a licence, the Court shall take possession of the licence and forward it to the licensing authority by which it was granted or last renewed and that authority shall keep the licence until the disqualification has expired or has been removed and the person entitled to the licence has made a demand in writing for its return to him:

Provided that, if the disqualification is limited to the driving of motor vehicle of a particular class or description, the Court shall endorse the licence to this effect and shall send a copy of the order of disqualification to the licensing authority by which the licence was granted and shall return the licence to the holder.

(6) Where on an appeal against any conviction or order of a Court which has been endorsed on a licence, the appellate Court varies or sets aside the conviction or order, the appellate Court shall inform the authority by which the licence was last renewed and the licensing authority which granted the licence and shall amend or cause to be amended the endorsement of such conviction or order.

Power to make rules.

20. (1) Our Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power such rules may provide for—

(a) the jurisdiction, control and functions of the licensing authority;

(b) the jurisdiction, control and functions of the authority, if any, empowered to renew licences and the conditions subject to which licences may be renewed;

(c) for the conduct and hearing of appeals that may be preferred under this Chapter;

(d) the issue of duplicate licences to replace licences lost, destroyed or mutilated, the replacement of photographs which have become obsolete, and the issue of temporary licences to persons receiving instruction in driving, and the fees to be charged therefor;

(*e*) the conditions subject to which the transport authority may disqualify a person for holding a licence to drive a public service vehicle;

(*f*) the medical examination and testing of applicants for licences and of drivers and the fees to be charged therefor;

(*g*) the refund of fees paid under the provisions of this Act or of Act VI of 1094;

(*h*) the granting by qualified medical practitioners of the certificates referred to in sub-section (3) of Section 7;

(*i*) the control of schools or establishments for the instruction of drivers of motor vehicles;

(*j*) the exemptions of drivers of road-rollers from all or any of the provisions of this Chapter or of the rules made thereunder; and

(*k*) any other matter which is to be or may be prescribed.

CHAPTER III.

Registration of Motor Vehicles.

Necessity for registration.

21. (1) No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place for the purpose of carrying passengers or goods unless the vehicle is registered in accordance with this Chapter and the certificate of registration of the vehicle has not been suspended or cancelled and the vehicle carries a registration mark displayed in the prescribed manner.

(2) Nothing in this section shall apply to a motor vehicle while being driven to or from the place of registration for the purpose of being registered under Section 22 or 24 or to a motor vehicle exempted from the provisions of this Chapter while in the possession of a dealer in motor vehicles.

Registration where to be made.

22. (1) Subject to the provisions of Section 24, every owner of a motor vehicle shall cause the vehicle to be registered by the registering authority.

(2) A motor vehicle already registered under the Travancore Motor Vehicles Act of 1094, at the commencement of this Act shall be deemed to be registered under this Act until the expiry of six months from the commencement of this Act and on the application of the owner before that date shall be registered under this Act without payment of any registration fee.

(3) Our Government may, by rules made under Section 39, provide that within a prescribed period certificates of registration of any prescribed class of transport vehicles deemed to be registered

under this Act by virtue of sub-section (2) shall be presented to a prescribed authority for the entry therein of all or any of the particulars specified in Section 35.

23. (1) An application by or on behalf of the owner of a motor vehicle for registration shall be in Form E as set forth in the First Schedule, shall contain the information required by that form, and shall be accompanied by the prescribed fee.

Registration how to be made.

(2) The registering authority shall issue to the owner of a motor vehicle registered by it a certificate of registration in Form G as set forth in the First Schedule and shall enter in a record to be kept by it particulars of such certificate.

(3) The registering authority shall assign to the vehicle for display thereon in the prescribed manner, a distinguishing mark (in this Act referred to as the registration mark) consisting of the words or groups of letters prescribed therefor, followed by a number containing not more than four figures:

Provided that in the case of any particular motor vehicle or class of motor vehicles, Our Government may, by notification in Our Government Gazette provide for any other specified registration mark.

24. (1) Notwithstanding anything contained in Section 22, the owner of a motor vehicle may apply to the registering authority to have the vehicle temporarily registered in the prescribed manner and for the issue in the prescribed manner of a temporary certificate of registration and a temporary registration mark.

Temporary registration.

(2) A registration made under this section shall be valid only for a period not exceeding one month, and shall not be renewable.

25. The registering authority may before proceeding to register a motor vehicle require the person applying for registration of the vehicle to produce the vehicle either before itself or such authority as Our Government may by order appoint in order that the registering authority may satisfy itself that the particulars contained in the application are true and that the vehicle complies with the requirements of Chapter V and of the rules made thereunder.

Production of vehicle at time of registration.

26. The registering authority may refuse to register any motor vehicle if the vehicle is mechanically defective or fails to comply with the requirements of Chapter V or of the rules made thereunder, or if the applicant fails to furnish particulars of any previous

Refusal of registration.

registration of the vehicle, and it shall furnish the applicant whose vehicle is refused registration with the reasons in writing for such refusal.

Effectiveness in Travancore of registration.

27. (1) Subject to the provisions of sub-section (1) of Section 22 and sub-section (2) and sub-section (3) of this section, a motor vehicle registered by a competent authority in British India or in any Indian State or in the French or Portuguese Settlements bounded by India shall not require to be registered in Travancore:

Provided that there is in force in respect of the vehicle a certificate conforming to and containing substantially the same particulars as the certificate of registration in Form G as set forth in the First Schedule issued by such competent authority in respect of such vehicle:

Provided further that in the opinion of a prescribed authority no such motor vehicle is in such a condition that its use in a public place would constitute a danger to the public.

(2) A certificate complying with the requirements of the provisos to sub-section (1) shall be effective throughout Travancore as if it were a certificate of registration issued under this Act.

(3) Sub-section (1) shall not apply to any motor vehicle previously registered in Travancore, if the certificate of registration of the vehicle in Travancore is for the time being suspended or cancelled for any reason other than that of permanent removal of the vehicle from Travancore.

(4) If at any time Our Government are satisfied that motor vehicles registered in Travancore under this Act are not permitted to be driven in British India or in any Indian State or French or Portuguese Settlement without fresh registration in such territory, State or Settlement, or are permitted to be driven only subject to unreasonable conditions or that like conditions and requirements to those imposed under this Act (including the specification of the particulars required by Form G as set forth in the First Schedule, are not imposed in a reasonable degree upon the issue and for the continued effectiveness of certificates of registration in any territory, State or Settlement as aforesaid Our Government may, by notification in Our Government Gazette, declare that certificates of registration generally or in respect of any particular class of motor vehicle issued in any such territory, State or Settlement shall not be effective in Travancore.

Change of residence or place of business.

28. (1) If the owner of a motor vehicle ceases to reside or have his place of business at the address recorded in the certificate of registration of the vehicle, he shall, within thirty days of any such change of address, intimate his new address to the registering authority and shall at the same time forward the

certificate of registration to the registering authority in order that the new address may be entered therein.

(2) Nothing in sub-section (1) shall apply where the change of the address recorded in the certificate of registration is due to a temporary absence not intended to exceed six months in duration or where the motor vehicle is neither used nor removed from the address recorded in the certificate of registration.

Transfer of ownership.

29. Within thirty days of the transfer of ownership of any motor vehicle registered under this Chapter, the transferee shall report the transfer to the registering authority and shall forward the certificate of registration to that registering authority together with the prescribed fee in order that particulars of the transfer of ownership may be entered therein.

Alteration in motor vehicle.

30. If a motor vehicle is so altered that the particulars contained in the certificate of registration are no longer accurate, the owner of the vehicle shall, within fourteen days of the making of any such alteration, report the alteration to the registering authority and shall forward the certificate of registration to that authority together with the prescribed fee in order that particulars of the alteration may be entered therein.

Provided that it shall not be necessary to report any change in the unladen weight of the motor vehicle consequent on the addition or removal of fittings or accessories, if such change does not exceed two per cent. of the weight entered in the certificate of registration.

Suspension of registration.

31. (1) The registering authority or other prescribed authority, which has reason to believe that any motor vehicle within its jurisdiction is in such a condition that its use in a public place would constitute a danger to the public, or that it fails to comply with the requirements of Chapter V or of the rules made thereunder may, after giving the owner an opportunity of making any representation he may wish to make, for reasons to be recorded in writing suspend the certificate of registration of the vehicle until the defects are remedied to its satisfaction.

(2) An authority other than a registering authority shall, when making a suspension order under sub-section (1), intimate in writing the fact of suspension and the reasons therefor to the registering authority.

(3) Where the registration of a motor vehicle has been suspended under sub-section (1), the registering authority may cancel the registration when the suspension has continued without interruption for a period of not less than six months.

(4) The owner of a motor vehicle shall, on the demand of the registering authority or other prescribed authority which has suspended the certificate of registration of the vehicle under this section, surrender the certificate of registration and any token or card issued to authorise the use of the vehicle in a public place.

(5) A certificate of registration and any token or card surrendered under sub-section (4) shall be returned to the owner when the order suspending registration has been rescinded and not before.

Cancellation of registration.

32. (1) If a motor vehicle has been destroyed or has been rendered permanently incapable of use, the owner shall, within fourteen days or as soon as may be, report the fact to the registering authority and shall forward to that authority the certificate of registration of the vehicle together with any token or card issued to authorise the use of the vehicle in a public place.

(2) The registering authority shall cancel the registration and the certificate of registration.

(3) The registering authority may order the examination of a motor vehicle by such authority as Our Government may by order appoint and, if upon such examination and after giving the owner an opportunity to make any representation he may wish to make it is satisfied that the vehicle is in such a condition that its use in a public place would constitute a danger to the public and that it is beyond reasonable repair, may cancel the registration of the vehicle.

(4) If the registering authority is satisfied that a motor vehicle has been permanently removed out of Travancore, the registering authority shall cancel the registration.

(5) The registering authority cancelling the registration of a motor vehicle under Section 31 or under this section shall communicate the fact in writing to the owner of the vehicle and the owner of the vehicle shall forthwith surrender to that authority the certificate of registration of the vehicle and any token or card issued to authorise the use of the vehicle in a public place.

(6) The registering authority making an order of cancellation under this section shall cancel the certificate of registration and the entry relating to the vehicle in its records.

Appeals.

33. (1) Any owner of a motor vehicle aggrieved by an order of refusal under Section 26 to register a motor vehicle or under sub-section (1) of Section 36 to issue a certificate of fitness or by an order of suspension or cancellation made under Section 31 or 32 or by an order of cancellation under sub-section (3) of Section 36 may, within thirty days of the date on which he has received notice of such order, appeal against the order to Our Government.

(2) Our Government may cancel, vary or suspend such order:

Provided that orders appealed against shall remain in force pending the disposal of the appeal unless the appellate authority otherwise directs.

Special requirement for registration of transport vehicle.

34. (1) After the commencement of this Act, the registering authority shall refuse to register any transport vehicle other than a motor cab, unless the application for registration is accompanied by a document in Form F as set forth in the First Schedule signed by the maker of the vehicle or an assembler duly authorised by the maker in this behalf stating the greatest laden weight and greatest axle weights for which the vehicle is and the several axles are designed:

Provided that nothing in this sub-section shall apply to any application for the registration of a transport vehicle already registered under any enactment in force at the commencement of thi Act.

(2) Where a transport vehicle or chassis, as the case may be, has affixed to it a metal plate, bearing the stamp of the maker or assembler and identified as appertaining to the particular vehicle or chassis to which it is attached, which contains the particulars specified in sub-section (1), that plate may at the discretion of the registering authority be deemed to be the document referred to in sub-section (1).

Special particulars to be recorded on registration of transport vehicle.

35. (1) The registering authority, when registering a transport vehicle other than a motor cab, shall enter in the record of registration and shall also enter in the certificate of registration of the vehicle the following particulars, namely:—

(*a*) the unladen weight of the vehicle;

(*b*) the number, nature and size of the tyres attached to each wheel;

(*c*) the registered laden weight of the vehicle and the registered axle weights pertaining to the several axles thereof, fixed in accordance with sub-section (2) with reference to the particulars of the tyres entered in the certificate of registration; and

(*d*) if the vehicle is used or adapted to be used for the carriage of passengers solely or in addition to goods, the number of passengers for whom accommodation is provided, and the owner of the vehicle shall have the said particulars exhibited in the prescribed manner on the vehicle.

(2) Notwithstanding any statement contained in the document referred to in sub-section (1) of Section 34 as supplied by the maker or assembler of a transport vehicle, the registered weight to

be recorded by the registering authority for any axle shall not exceed the permissible weight for that axle calculated in accordance with the Fifth Schedule, nor shall the registered laden weight of the vehicle exceed the sum of the several axle weights as so determined;

Provided that where it appears to Our Government that heavier weights than those specified in the Fifth Schedule may be permitted in a particular locality for vehicles of a particular type, Our Government may by notification in Our Government Gazette direct that the provisions of this sub-section shall apply with such modifications as may be specified in the notification.

(3) When by reason of an alteration in the number, nature or size of tyres attached to the vehicle the registered laden weight or any registered axle weight recorded in the certificate of registration no longer accords with the laden weight or the axle weight as determined in accordance with sub-section (2), the provisions of Section 30 shall apply, and the registering authority shall enter in the certificate of registration a revised registered laden weight and registered axle weights.

Certificate of fitness of transport vehicle.

36. (1) A transport vehicle shall not be deemed to be validly registered for the purposes of Section 21, unless it carries a certificate of fitness in Form H as set forth in the First Schedule, issued by the prescribed authority, to the effect that the vehicle complies for the time being with all the requirements of Chapter V and the rules made thereunder. Where the prescribed authority refuses to issue such certificate, it shall supply the owner of the vehicle with its reasons in writing for such refusal

(2) Subject to the provisions of sub-section (3), a certificate of fitness shall remain effective for three years, unless a shorter period, not being in any case less than six months, is specified in the certificate.

(3) The issuing authority or other prescribed authority may for reasons to be recorded in writing cancel a certificate of fitness at any time, if satisfied that the vehicle to which it relates no longer complies with all the requirements of this Act and the rules made thereunder; and on such cancellation the certificate of registration of the vehicle and any permit granted in respect of the vehicle under Chapter IV shall be deemed to be suspended until a new certificate of fitness has been obtained.

(4) Notwithstanding anything contained in sub-section (1), Our Government may, until the expiry of one year from the commencement of this Act, by rules made under Section 39, dispense with the necessity for a certificate of fitness in the case of all or any transport vehicles in respect of which certificates of registration

and permits had already been issued before the commencement of this Act.

Motor vehicles, the Property of Our Government.

37. Our Government may exempt any motor vehicle owned by or on behalf of Our Government from all or any of the provisions of this chapter.

Application of Chapter III to trailers.

38. (1) The registration mark assigned to a trailer shall be displayed in the prescribed manner on the side of the vehicle.

(2) No person shall drive a motor vehicle to which a trailer is or trailers are attached unless the registration mark of the motor vehicle so driven is displayed in the prescribed manner on the trailer or on the last trailer in the train, as the case may be.

Power to make rules.

39. (1) Our Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the conduct and hearing of appeals that may be preferred under this Chapter;

(*b*) the appointment, functions and jurisdiction of registering and other prescribed authorities;

(*c*) the issue of certificates of registration and duplicate certificates of registration to replace certificates lost, destroyed or mutilated;

(*d*) the temporary registration of motor vehicles, and the issue of temporary certificates of registration and marks;

(*e*) the manner in which registration marks and the particulars referred to in sub-section (1) of Section 35, and other prescribed particulars shall be exhibited;

(*f*) the fees to be charged for the issue or alteration of certificates of registration, for certificates of fitness, for registration marks, and for the examination or inspection of motor vehicles, and the refund of such fees;

(*g*) the forms, other than those set forth in the First Schedule, to be used for the purposes of this Chapter;

(*h*) the particulars to be furnished by the owner of any motor vehicle to the registering authority, upon the transfer of possession of the motor vehicle under the terms of a hiring agreement;

(*i*) the extension of the validity of certificates of fitness pending consideration of applications for their renewal;

(*j*) the exemption from the provisions of this Chapter, and the conditions and fees for exemption, of motor vehicles in the possession of dealers;

(*k*) the exemption of road-rollers from all or any of the provisions of this Chapter and the rules made thereunder, and the conditions governing such exemption; and the exemption of delivery vans from the provisions of Section 56 and the conditions governing such exemption; and

(*l*) any other matter which is to be or may be prescribed.

CHAPTER IV.

Control of Transport Vehicles.

Necessity for permits.

40. (1) No owner of a transport vehicle shall use or permit the use of the vehicle in any public place, save in accordance with the conditions of a permit granted by the transport authority authorising the use of the vehicle in that place in the manner in which the vehicle is being used:

Provided that a stage carriage permit shall, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a contract carriage:

Provided further that a stage carriage permit may, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a goods vehicle either when carrying passengers or not:

Provided further that a public carrier's permit shall, subject to any conditions that may be specified in the permit, authorise the holder to use the vehicle for the carriage of goods for or in connection with a trade or business carried on by him.

(2) In determining, for the purposes of this Chapter, whether a transport vehicle is or is not used for the carriage of goods for hire or reward,—

(*a*) the delivery or collection by or on behalf of the owner of goods sold, used or let on hire or hire-purchase in the course of any trade or business carried on by him other than the trade or business of providing transport,

(*b*) the delivery or collection by or on behalf of the owner of goods which have been or which are to be subjected to a process or treatment in the course of a trade or business carried on by him, or

(*c*) the carriage of goods in a transport vehicle by a manufacturer of or agent or dealer in such goods whilst the vehicle is being used for demonstration purposes,

shall not be deemed to constitute a carrying of the goods for hire or reward; but the carriage in a transport vehicle of goods by a person not being a dealer in such goods who has acquired temporary ownership of the goods for the purpose of transporting them to another place and there relinquishing ownership shall be deemed to constitute a carrying of the goods for hire or reward.

(3) Sub-section (1) shall not apply –

(a) to any transport vehicle owned by or on behalf of Our Government;

(b) to any transport vehicle owned by a local authority or by a person acting under contract with a local authority and used solely for road cleansing, road watering or conservancy purposes;

(c) to any transport vehicle used solely for police, fire brigade or ambulance purposes;

(d) to any transport vehicle used solely for the conveyance of corpses;

(e) to any transport vehicle used for towing a disabled vehicle or for removing goods from a disabled vehicle to a place of safety;

(f) to any transport vehicle used for any other public purpose prescribed in this behalf;

(g) to any transport vehicle owned by, and used solely for the purposes of, any educational institution which is recognised by Our Government;

(h) subject to any prescribed conditions, to any transport vehicle owned by the Government of any British Indian Province or any Indian State or French or Portguese Settlement bounded by India used for purposes of such Government unconnected with any commercial enterprise;

(i) to any transport vehicle or class of transport vehicles which Our Government may specify by notification in Our Government Gazette; or

(j) to any trailer used for any purpose other than the carriage of goods for hire or reward when drawn by a motor vehicle constructed for the carriage of not more than six passengers excluding the driver.

(4) Subject to the provisions of sub-section (3), sub-section (1) shall, if Our Government by rule made under Section 64 so prescribes, apply to any motor vehicle adapted to carry more than nine passengers excluding the driver.

Power to Government to control road transport.

41. (1) Our Government, having regard to—

(a) the advantages offered to the public, trade and industry by the development of motor transport, and

(b) the desirability of co-ordinating road and rail or water transport, and

(c) the desirability of preventing the deterioration of the road system, and

(d) the desirability of preventing un-economic competition among motor vehicles, and after having heard the representatives of

the interests affected, may, by notification in Our Government Gazette,—

(i) prohibit or restrict throughout Travancore or in any area or on any route within Travancore, subject to such conditions as it may think desirable, the conveying of long distance goods traffic generally, or of prescribed classes of goods, by private or public carriers ; or

(ii) fix maximum or minimum fares or freights for stage carriages and public carriers to be applicable throughout Travancore or within any area or on any route within Travancore.

(2) Our Government shall permit, at such intervals of time as it may fix, the interests affected by any notification issued under sub-section (1) to make representations urging the cancellation or variation of the notification on the following grounds, namely :—

(a) that the railway or water transport agencies are not giving reasonable facilities or are taking unfair advantage of the action of Our Government under this section ; or

(b) that conditions have changed since the publication of the notification ; or

(c) that the special needs of a particular industry or locality require to be considered afresh.

(3) If Our Government, after considering any representation made to it under sub-section (2) and having heard the representatives of the interests affected, is satisfied that any notification issued under sub-section (1) ought to be cancelled or varied, it may cancel the notification or vary it in such manner as it thinks fit.

General provision as to applications for permits.

42. Every application for a permit shall be made to the transport authority.

Application for stage carriage permit.

43. An application for a permit to use a motor vehicle as a stage carriage (in this Chapter referred to as a stage carriage permit) shall contain the following particulars, namely :—

(a) the type and seating capacity of the vehicle in respect of which the application is made ;

(b) the route or routes on which or the area within which it is intended to use the vehicle ;

(c) the time table, if any, of the service to be provided ; and

(d) such other matters as may be prescribed.

Procedure of transport authority in considering application for stage carriage permit.

44. (1) The transport authority shall, in deciding whether to grant or refuse a stage carriage permit, have regard to the following matters, namely :—

(*a*) the interest of the public generally ;

(*b*) the advantages to the public of the service to be provided, including the saving of time likely to be effected thereby and any convenience arising from journeys not being broken ;

(*c*) the adequacy of existing road passenger transport services between the places to be served, the fares charged by those services and the effect upon those services of the service proposed ;

(*d*) the benefit to any particular locality or localities likely to be afforded by the service ;

(*e*) the operation by the applicant of other transport services and in particular of unremunerative services in conjunction with remunerative services ; and

(*f*) the condition of the roads included in the proposed route or routes : and shall also take into consideration any representations made by persons already providing road transport facilities along or near the proposed route or routes or by any local authority within whose jurisdiction any part of the proposed route or routes lies or by any association interested in the provision of road transport facilities.

(2) The Transport Authority shall refuse to grant a stage carriage permit if it appears from any time-table furnished that the provisions of this Act relating to the speed at which vehicles may be driven are likely to be contravened :

Provided that before such refusal an opportunity shall be given to the applicant to amend the time-table so as to conform to the said provisions.

Power to restrict the number of stage carriages and impose conditions on stage carriage permits.

45. The transport authority may, after consideration of the matters set forth in sub-section (1) of Section 44,—

(*a*) limit the number of stage carriages or stage carriages of any specified type for which stage carriage permits may be granted for a specified route or for specified routes or for a specified area ;

(*b*) issue a stage carriage permit in respect of a particular stage carriage or a particular service of stage carriages ;

(*c*) regulate timings of arrival or departure of stage carriages whether they belong to a single or more owners ; or

(*d*) attach to a stage carriage permit any prescribed condition or any one or more of the following conditions, namely:—

(i) that the service specified in the permit shall be commenced not later than a specified date and be continued for a specified period;

(ii) that the service may be varied only in accordance with specified conditions ;

(iii) that the stage carriage or stage carriages shall be used only on specified routes or in a specified area ;

(iv) that copies of the fare-table and time-table shall be exhibited on the stage carriage and that the fare-table and time-table so exhibited shall be observed ;

(v) that not more than a specified number of passengers and not more than a specified amount of luggage shall be carried on any specified vehicle at any one time ;

(vi) that within municipal limits and in such other areas and places as may be prescribed passengers shall not be taken up or set down at or except at specified points ; or

(vii) that tickets shall be issued to passengers for the fares paid.

Application for contract carriage permit.

46. An application for a permit to use a motor vehicle as a contract carriage (in this Chapter referred to as a contract carriage permit) shall contain the following particulars, namely :—

(a) the type and seating capacity of the vehicle ;

(b) the area for which the permit is required ;

(c) in the case of a motor vehicle other than a motor cab, the manner in which it is claimed that the public convenience will be served by the vehicle ; and

(d) any other particulars which may be prescribed.

Procedure of transport authority in considering application for contract carriage permit.

47. The transport authority shall, in deciding whether to grant or refuse a contract carriage permit, have regard to the extent to which additional contract carriages may be necessary or desirable in the public interest; and shall also take into consideration any representations which may then be made or which may previously have been made by persons already holding contract carriage permits in the locality or by any local authority in the area to the effect that the number of contract carriages for which permits have already been granted is sufficient for or in excess of the needs of the locality or any area within the locality.

Power to restrict the number of contract carriages and impose conditions on contract carriage permits.

48. The transport authority may after consideration of the matters set forth in Section 47,—

(a) limit the number of contract carriages generally, or contract carriages of any specified type for which contract carriage permits may be granted in the locality or any specified area within the locality ;

(b) fix in the case of motor cabs the fares which may be charged ;

(c) require that every motor cab shall carry a copy of the fare-table for inspection by passengers ;

(d) require that any motor cab shall be fitted with a taxi meter ; or

(e) impose on the use of a contract carriage any other condition which may be prescribed.

Application for private carrier's permit.

49. An application for a permit to use a transport vehicle for the carriage of goods for or in connection with a trade or business carried on by the applicant (in this Chapter referred to as a private carrier's permit) shall contain the following particulars, namely :—

(a) the type and carrying capacity of the vehicle ;

(b) the nature of the goods which the applicant expects normally to carry in connection with his trade or business ;

(c) the area for which the permit is required ; and

(d) any other particular which may be prescribed.

Procedure of transport authority in considering application for a private carrier's permit.

50. (1) The transport authority shall, in deciding whether to grant or refuse a private carrier's permit, have regard to the condition of the roads to be used by the vehicle or vehicles in respect of which the application is made, and shall satisfy itself that the vehicle or vehicles for which the permit is required will not be used except in connection with the business of the applicant.

(2) The transport authority may in granting a private carrier's permit impose conditions to be specified in the permit relating to the description of goods which may be carried, or the area in which the permit shall be valid, or the maximum laden weight and axle weights of any vehicle used.

(3) If the applicant is the holder of a private carrier's permit which has been suspended or has been the holder of a private carrier's permit which has been revoked, the transport authority may at its discretion notwithstanding anything contained in sub-section (1) refuse the application.

51. An application for a permit to use a motor vehicle for the carriage of goods for hire or reward (in this Chapter referred to as a public carrier's permit) shall contain the following particulars, namely:—

Application for public carrier's permit.

(*a*) the routes on which or the area in which it is intended to use the vehicle;

(*b*) the type and carrying capacity of the vehicle;

(*c*) the manner in which it is claimed that a public need will be served by the vehicle;

(*d*) such particulars as the transport authority may require with respect to any business as a carrier of goods for hire or reward carried on by the applicant at any time before the making of the application, and of the rates charged by the applicant;

(*e*) particulars of any agreement or arrangement, affecting in any material respect the provision along the route or within the area of facilities for the transport of goods for hire or reward, entered into by the applicant with any other person by whom such facilities are provided; and

(*f*) any other particulars which may be prescribed.

52. The transport authority shall, in deciding whether to grant or refuse a public carrier's permit, have regard to the following matters, namely:—

Procedure of transport authority in considering application for public carrier's permit.

(*a*) the interests of the public generally;

(*b*) the advantages to the public of the service to be provided and the convenience afforded to the public by the provision of such service;

(*c*) the adequacy of existing road transport services for the carriage of goods upon the routes or within the area to be served and the effect upon those services of the service proposed;

(*d*) the benefit to any particular locality or localities likely to be afforded by the service;

(*e*) the need for providing for occasions when vehicles are withdrawn from service for overhaul or repair; and

(*f*) the condition of the roads included in the proposed routes or area; and shall also take into consideration any representations made by persons already providing road transport facilities along or near to the proposed route or routes or by any local authority within whose jurisdiction any part of the proposed route or routes lies.

53. The transport authority may, after consideration of the matters set forth in Section 52,—

Power to restrict the number of and attach conditions to public carrier's permits.

(*a*) limit the number of transport vehicles or transport vehicles of any specified type for which public carrier's permits may be granted in any specified area or on any specified routes within the area; or

(*b*) attach to a public carrier's permit all or any of the following conditions, namely :—

(i) that the vehicle shall be used only on specified routes or in a specified area,

(ii) that the laden weight and the axle weights of any vehicle used shall not exceed a specified maximum,

(iii) that such records as may be prescribed relating to the plying of the vehicle shall be maintained, and

(iv) any other prescribed condition appropriate to the service to be provided by the vehicle which the transport authority thinks proper to impose in the public interest or with a view to prevent uneconomic competition between road transport services.

54. (1) An application for a contract carriage permit or a private carrier's permit may be made at any time.

Procedure in applying for and granting permits.

(2) An application for a stage carriage permit or a public carrier's permit, shall be made not less than six weeks before the date on which it is desired that the permit shall take effect, or, if the transport authority appoints dates for the receipt of such applications, on such dates.

(3) On receipt of an application for a stage carriage permit or a public carrier's permit, the transport authority shall make the application available for inspection at the office of the authority and shall publish the application or the substance thereof in the prescribed manner together with a notice of the date before which representations in connection therewith may be submitted and the date, not being less than thirty days from such publication, on which, and the time and place at which, the application and any representations received will be considered.

(4) No representation in connection with an application referred to in sub-section (3) shall be considered by the transport authority unless it is made in writing before the appointed date and unless a copy thereof is furnished simultaneously to the applicant by the person making such representation.

(5) When any representation such as is referred to in sub-section (3) is made, the transport authority shall dispose of the application at a public hearing at which the applicant and the person making the representation shall have an opportunity of being heard either in person or by a duly authorised representative.

(6) When any representation has been made by the persons or authorities referred to in Section 47 to the effect that the number of contract carriages for which permits have already been granted in any locality or any area within a locality is sufficient for or in excess of the needs of the locality or of such area, whether such representation is made in connection with a particular application for the grant of a contract carriage permit or otherwise, the tranport authority may take any such steps as it considers appropriate for the hearing of the representation in the presence of any persons likely to be affected thereby.

(7) When a transport authority refuses an application for a permit of any kind, it shall give to the applicant in writing its reasons for the refusal.

Duration and renewal of permits.

55. (1) A permit other than a temporary permit issued under Section 59 shall be effective without renewal for such period, not less than one year and more than three years, as the transport authority may in its discretion specify in the permit.

(2) A permit may be renewed on an application made and disposed of as if it were an application for a permit;

Provided that, other conditions being equal, an application for renewal shall be given preference over new applications for permits.

(3) Notwithstanding anything contained in this or any other section, Our Government may, whenever they deem it necessary to do so, cancel any permit at any time during its currency.

General conditions attaching to all permits.

56. (1) Save as provided in Section 58, a permit shall not be transferable from one person to another except with the permission of the transport authority and shall not without such permission operate to confer on any person to whom a vehicle covered by the permit is transferred any right to use that vehicle in the manner authorised by the permit.

(2) The holder of a permit may, with the permission of the authority by which the permit was granted, replace by another vehicle of the same nature and capacity any vehicle covered by the permit.

(3) The following shall be conditions of every permit—

(a) that the vehicle or vehicles to which the permit relates are at all times so maintained as to comply with the

requirements of Chapter V and the rules made thereunder;

(b) that the vehicle or vehicles to which the permit relates are not driven at a speed exceeding the speed lawful under this Act;

(c) that any prohibition or restriction imposed and any maximum or minimum fares or freights fixed by notification made under Section 41 are observed in connection with any vehicle or vehicles to which the permit relates;

(d) that the vehicle or vehicles to which the permit relates are not driven in contravention of the provisions of Section 68; and

(e) that the provisions of this Act limiting the hours of work of drivers are observed in connection with any vehicle or vehicles to which the permit relates.

Cancellation and suspension of permits.

57. The transport authority may cancel the permit or may suspend it for such period as it thinks fit—

(a) on the breach of any condition specified in sub-section (3) of Section 56, or of any condition contained in the permit, or

(b) if the holder of the permit uses or causes or allows a vehicle to be used in any manner not authorised by the permit, or

(c) if the holder of the permit ceases to possess the vehicle or vehicles covered by the permit, or

(d) if the holder of the permit has obtained the permit by fraud or misrepresentation:

Provided that no permit shall be cancelled unless an opportunity has been given to the holder of the permit to submit his explanation.

(2) Where a transport authority cancels or suspends a permit, it shall give to the holder in writing its reasons for the revocation or suspensions.

Transfer of permit on death of holder.

58. (1) Where the holder of a permit dies, the person succeeding to the possession of the vehicle covered by the permit may, for a period of three months, use the permit as if it had been granted to himself:

Provided that such person has, within thirty days of the death of the holder informed the transport authority of the death of the holder, and of his own intention to use the permit:

Provided further that no permit shall be so used after the date on which it would have ceased to be effective without renewal in the hands of the deceased holder.

(2) The transport authority may, on application made to it within three months of the death of the holder of a permit, transfer the permit to the person succeeding to the possession of the vehicles covered by the permit.

Temporary permits.

59. (1) The transport authority may at its discretion, and without following the procedure laid down in Section 54, grant permits, to be effective for a limited period not in any case to exceed four months, to authorise the use of a transport vehicle temporarily.—

(a) for the conveyance of passengers on special occasions such as to and from fairs and religious gatherings, or

(b) for the purposes of a seasonal business, or

(c) to meet a particular temporary need, and may attach to any such permit any condition it thinks fit.

(2) The transport authority may, with the previous sanction of Our Government, delegate all or any of its powers under this section to any other prescribed authority.

Appeals.

60. Any person—

(a) aggrieved by the refusal of the transport authority to grant a permit or by any condition attached to a permit granted to him, or

(b) aggrieved by the revocation or suspension of the permit or by any variation of the conditions thereof, or

(c) aggrieved by the refusal to transfer the permit to the person succeeding on the death of the holder of a permit, or

(d) aggrieved by the refusal of renewal of a permit, or

(e) being a local authority or an association which, or a person providing transport facilities who, having opposed the grant of a permit, is aggrieved by the grant thereof or by any condition attached thereto, or

(f) being the holder of a licence, who is aggrieved by the refusal of the transport authority to grant an authorisation to drive a public service vehicle,

may, within the prescribed time and in the prescribed manner appeal to Our Government.

Restriction of hours of work of drivers.

61. (1) No person shall cause or allow any person who is employed by him for the purpose of driving a transport vehicle or who is subject to his control for such purpose to work—

(a) for more than five hours before he has had an interval of rest of at least half an hour; or

(b) for more than nine hours in one day; or

(c) for more than fifty-four hours in the week.

(2) Our Government may by rule made under Section 64 grant such exemptions from the provisions of sub-section (1) as it thinks fit, to meet cases of emergency or of delays by reason of circumstances which could not be foreseen.

(3) Our Government may require persons employing any persons whose work is subject to any of the provisions of sub-section (1) to fix beforehand the hours of work of such persons so as to conform with those provisions and may provide for the recording of the hours so fixed.

(4) No person shall work or shall cause or allow any other person to work outside the hours fixed or recorded for the work of such persons in compliance with any rule made under sub-section (3).

(5) Our Government may prescribe the circumstances under which any period during which the driver of a vehicle although not engaged in work is required to remain on or near the vehicle may be deemed to be an interval for rest within the meaning of sub-section (1).

(6) Nothing contained in this section shall apply to persons employed in any transport vehicle owned by or on behalf of Our Government.

Voidance of contracts restrictive of liability.

62. Any contract for the conveyance of a passenger in a stage carriage or contract carriage, in respect of which a permit has been issued under this Chapter, shall, so far as it purports to negative or restrict the liability of any person in respect of any claim made against that person in respect of the death of, or bodily injury to, the passenger while being carried in, entering or alighting from the vehicle, or purports to impose any conditions with respect to the enforcement of any such liability, be void.

Power to make rules as to stage carriages and contract carriages.

63. Our Government may make rules to regulate, in respect of stage carriages and contract carriages,—

(a) the conduct of persons licensed to act as drivers of, and the licensing of and the conduct of conductors of, such vehicles when acting as such; and

(b) the conduct of passengers in such vehicles.

(2) Without prejudice to the generality of the foregoing provision, such rules may:—

(a) authorise the removal from such vehicle of any person infringing the rules by the driver or conductor of the vehicle, or, on the request of the driver or conductor, or any passenger by any Police officer;

(b) require a passenger who is reasonably suspected by the driver or conductor of contravening the rules to give his name and address to a police officer or to the driver or conductor on demand;

(c) require a passenger to declare, if so requested by the driver or conductor, the journey he intends to take or has taken in the vehicle and to pay the fare for the whole of such journey and to accept any ticket provided therefor;

(d) require, on demand being made for the purpose by the driver or conductor or other person authorised by the owner of the vehicle, production during the journey and surrender at the end of the journey by the holder thereof of any ticket issued to him;

(e) require a passenger, if so requested by the driver or conductor, to leave the vehicle on the completion of the journey the fare for which he has paid;

(f) require the surrender by the holder thereof on the expiry of the period for which it is issued of a ticket issued to him;

(g) require the maintenance of complaint books in stage carriages and prescribe the conditions under which passengers can record any complaints in the same.

Power to make rules for the purposes of this Chapter.

64. (1) Our Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, rules under this section may be made with respect to all or any of the following matters, namely:—

(a) the conduct and hearing of appeals that may be preferred under this Chapter;

(b) the forms to be used for the purposes of this Chapter, including the forms of permits;

(c) the issue of copies of permits in place of permits lost or destroyed;

(d) the documents, plates and marks to be carried by transport vehicles and the manner in which they are to be carried;

(e) the badges and uniform to be worn by drivers and conductors of stage carriages and contract carriages ;

(f) the fees to be paid in respect of permits, duplicate permits, plates and badges ;

(g) the custody, production and cancellation on revocation or expiration of permits, and the return of permits which have become void or have been revoked;

(h) the construction and fittings of, and the equipment to be carried by, stage and contract carriages, whether generally or in specified areas : .

(i) the determination of the number of passengers a stage or contract carriage is adapted to carry and the number which may be carried ;

(j) the conditions subject to which goods may be carried on stage and contract carriages partly or wholly in lieu of passengers ;

(k) the safe custody and disposal of property left in a stage or contract carriage;

(l) prohibiting the painting or marking of a stage or a contract carriage in such colour or manner as to induce any person to believe that the vehicle is used for the transport of mails ;

(m) the conveyance in stage or contract carriages of corpses or persons suffering from any infectious or contagious disease or goods likely to cause discomfort or injury to passengers and the inspection and disinfection of such carriages, if used for such purposes ;

(n) the provision of taxi meters on motor cabs requiring approval or standard types of taxi meters to be used and examining, testing and sealing taxi meters;

(o) prohibiting the picking up or setting down of passengers by stage or contract carriages at specified places or in specified areas or a places other than duly notified stands or halting places and requiring the driver of a stage carriage to stop and remain stationary for a reasonable time when so required by a passenger desiring to board or alight from the vehicle at a notified halting place;

(p) the requirements (including the provision of proper sanitary arrangements) which shall be complied with in any duly notified stand or halting place;

(q) requiring the owners of transport vehicles to notify any change of address or to report the failure of or damage to any vehicle used for the conveyance of passengers for hire or reward;

(r) requiring the person in charge of a stage carriage to carry any person tendering the legal or customary fare ;

(s) the conditions under which and the types of containers or vehicles in which animals or birds may be carried and the seasons during which animals or birds may or may not be carried;

(t) the licensing of and the conduct of agents for the sale of tickets for travel by stage carriages;

(u) the inspection of transport vehicles and their contents and of the permits relating to them;

(v) the carriage of persons other than the driver in goods vehicles;

(w) the records to be maintained and the returns to be furnished by the owners of transport vehicles; and

(x) any other matter which is to be or may be prescribed.

CHAPTER V.

CONSTRUCTION, EQUIPMENT AND MAINTENANCE OF MOTOR VEHICLES.

General provision regarding construction and maintenance.

65. Every motor vehicle shall be so constructed and so maintained as to be at all times under the effective control of the person driving the vehicle.

Power to make rules.

66. (1) Our Government may make rules regulating the construction, equipment and maintenance of motor vehicles and trailers.

(2) Without prejudice to the generality of the foregoing power, rules may be made under this section governing any of the following matters either generally in respect of motor vehicles or trailers or in respect of motor vehicles or trailers of a particular class or in particular circumstances, namely:—

(a) the width, height, length, and overhang of vehicles and of the loads carried;

(b) seating arrangements in public service vehicles and the protection of passengers against the weather;

(c) the size, nature and condition of tyres;

(d) brakes and steering gear;

(e) the use of safety glass;

(f) signalling appliances, lamps and reflectors;

(g) speed governors;

(h) the emission of smoke, visible vapour, sparks, ashes, grit or oil;

(i) the reduction of noise emitted by or caused by vehicles;

(j) prohibiting or restricting the use of audible signals at certain times or in certain places;

(k) prohibiting the carrying of appliances likely to cause annoyance or danger;

(l) the periodical testing and inspection of vehicles by prescribed authorities;

(m) the particulars other than registration marks to be exhibited by vehicles and the manner in which they shall be exhibited; and

(n) the use of trailers with motor vehicles.

CHAPTER VI.

CONTROL OF TRAFFIC.

Limits of speed.

67. (1) No person shall drive a motor vehicle or cause or allow a motor vehicle to be driven in any public place at a speed exceeding the maximum speed fixed for the vehicle by or under this Act or by or under any law for the time being in force:

Provided that such maximum speed shall in no case exceed the maximum fixed for the vehicle in the Sixth Schedule.

(2) Our Government or any authority authorised in this behalf by Our Government may, if satisfied that it is necessary to restrict the speed of motor vehicles in the interests of public safety or convenience or because of the nature of and road or bridge, by notification in Our Government Gazette, fix such maximum speed limits as it thinks fit for motor vehicles or and specified class of motor vehicles or for motor vehicles to which a trailer is attached, either generally or in a particular area or on a particular road or roads.

Limits of weight and limitations on use.

68. (1) Our Government may prescribe conditions for the issue of permits for heavy transport vehicles by the transport authority and may prohibit or restrict the use of such vehicles in any area or route:

Provided that any permit issued before the commencement of this Act may be continued or renewed by the competent authority for a period not exceeding one year under the conditions upon which the permit was originally issued, unless Our Government direct otherwise.

(2) Except as may be otherwise prescribed, no person shall drive or cause or allow to be driven in any public place any motor vehicle which is not fitted with pneumatic tyres.

(3) No person shall drive or cause or allow to be driven in any public place any motor vehicle or trailer—

(a) the unladen weight of which exceeds the unladen weight specified in the certificate of registration of the vehicle, or

(b) the laden weight of which exceeds the registered laden weight specified in the certificate of registration, or

(c) any axle weight of which exceeds the maximum axle weight specified for that axle in the certificate of registration.

(4) Where the driver or person in charge of a motor vehicle or trailer driven in contravention of sub-section (2) or clause (a) of sub-section (3) is not the owner, a Court may presume that the offence was committed with the knowledge of or under the orders of the owner of the motor vehicle or trailer.

Power to have vehicle weighed.

69. Any person authorised in this behalf by our Government may, if he has reason to believe that a goods vehicle or trailer is being used in contravention of Section 68, require the driver to convey the vehicle to a weighting devise, if any, within a distance of one mile from any point on the foreward route or within a distance of five miles from the destination of the vehicle for weightment; and if on such weighment the vehicle is found to contravene in any respect the provisions of Section 68 regarding weight, he may, by order in writing, direct the driver to convey the vehicle or trailer to the nearest place, to be specified in the notice, where facilities exist for the storage of goods, and not to remove the vehicle or trailer from that place until the laden weight or axle-weight has been reduced or the vehicle has otherwise been treated so that it complies with Section 68.

Power to restrict the use of vehicles.

70. Our Government or any authority authorised in this behalf by Our Government if satisfied that it is necessary in the interests of public safety or convenience, or because of the nature of any road or bridge, may by notification in Our Government Gazette prohibit or restrict, subject to such exceptions and conditions as may be specified in the notification, the driving of motor vehicles or of any specified class of motor vehicles or the use of trailers either generally in a specified area or on a specified road.

Power to erect traffic signs.

71. (1) Our Government or any authority authorised in this behalf by Our Government may cause or permit traffic signs to be placed or erected in any public place for the purpose of regulating motor vehicle traffic.

(2) Traffic signs erected under sub-section (1) for any purpose for which provision is made in the Seventh Schedule shall be of the size, colour and type and shall have the meanings set forth in the Seventh Schedule, but Our Government or any authority empowered in this behalf by Our Government may make or authorise the addition to any sign set forth in the said Schedule, or transcriptions of the words, letters or figures thereon in such script as Our Government may think fit.

(3) Except as provided by sub-section (1) no traffic sign shall, after the commencement of this Act, be placed or erected on

or near any road: but all traffic signs erected prior to the commencement of this Act by any competent authority shall for the purposes of this Act be deemed to be traffic signs erected under the provisions of sub-section (1)

(4) Our Government may, by notification in Our Government Gazette, empower any District Magistrate or Superintendent of Police to remove or cause to be removed any sign or advertisement which is so placed in his opinion as to obscure any traffic sign from view on sign or advertisement which is in his opinion so similar in appearance to a traffic sign as to be misleading.

Parking places and halting stations.

72. Our Government or any authority authorised in this behalf by Our Government may, in consultation with the local authority having jurisdiction in the area concerned, determine places at which motor vehicles may stand either indefinitely or for a specified period of time, and may determine the places at which public service vehicles may stop for a longer time than is necessary for the taking up and setting down of passengers.

Main roads.

73. Our Government or any authority authorised in this behalf by Our Government may, by notification in Our Government Gazette or by the erection at suitable places of the appropriate traffic sign referred to in Part A of the Seventh Schedule, designate certain roads as main roads for the purposes of the regulations contained in the Eighth Schedule.

Duty to obey traffic signs.

74. Every driver of a motor vehicle shall drive the vehicle in conformity with any indication given by a traffic sign included in Part A of the Seventh Schedule and in confirmity with the driving regulations set forth in the Eighth Schedule, and shall comply with all directions given him by any police officer for the time being engaged in the regulation of traffic in any public place.

Signals and signalling devices.

75. The driver of a motor vehicle shall on the occasions specified in the Ninth Schedule make the signals specified therein:

Provided that the signal of an intention to turn to the right or left or to stop may be given by a mechanical or an electrical device of a prescribed nature affixed to the vehicle.

Vehicles with left hand control.

76. No person shall drive or cause or allow to be driven in any public place any motor vehicle with a left hand steering control unless it is equipped with a mechanical or electrical signalling device of a prescribed nature and in working order.

77. No person in charge of a motor vehicle shall cause or allow the vehicle or any trailer to remain at rest on any road in such a position or in such a condition or in such circumstances as to cause or be likely to cause danger, obstruction or undue inconvenience to other users of the road.

Leaving vehicle in dangerous position.

78. No person driving or in charge of a motor vehicle shall carry any person or permit any person to be carried on the running board or otherwise than within the body of the vehicle.

Riding on running board.

79. No person driving a motor vehicle shall allow any person to stand or sit or anything to be placed in such a manner or position as to hamper the driver in his control of the vehicle.

Obstruction of driver.

80. No person driving or in charge of a motor vehicle shall cause or allow the vehicle to remain stationary in any public place, unless there is in the driver's seat a person duly licensed to drive the vehicle or unless the mechanism has been stopped and a brake or brakes applied or such other measures taken as to ensure that the vehicle cannot accidentally be put in motion in the absence of the driver.

Stationary vehicles

81. No driver of a two wheeled motor cycle shall carry more than one person in addition to himself on the cycle and no such person shall be carried otherwise than sitting on a proper seat securely fixed to the cycle behind the driver's seat.

Pillion riding.

82. (1) The driver of a motor vehicle in any public place shall, on demand by any police officer in uniform, produce his licence for examination.

Duty to produce licence and certificate of registration.

(2) The owner of a motor vehicle, or in his absence the driver or other person in charge of the vehicle, shall, on demand by a registering authority or any person authorised in this behalf by Our Government, produce the certificate of registration of the vehicle and, where the vehicle is a transport vehicle, the certificate of fitness referred to in Section 36.

(3) If the licence or certificates, as the case may be, are not at the time in the possession of the person to whom demand is made, it shall be a sufficient compliance with this section if such person produces the licence or certificates within ten days at any police station in Travancore which he specifies to the police officer or authority making the demand :

Provided that, except to such extent and with such modification as may be prescribed, the provisions of this sub-section shall not apply to a driver driving as a paid employee, or to the driver of a transport vehicle or to any person required to produce the certificate of registration or the certificate of fitness of a transport vehicle.

Duty of driver to stop in certain cases.

83. (1) The driver of a motor vehicle shall cause the vehicle to stop and remain stationary so long as may reasonable be necessary.—

(a) when required to do so by any police officer in uniform, or

(b) when required to do so by any person in charge of an animal if such person apprehends that the animal is, or being alarmed by the vehicle will become, unmanageable, or

(c) when the vehicle is involved in the occurrence of an accident to a person, animal or vehicle or of damage to any property, whether the driving or management of the vehicle was or was not the cause of the accident or damage, and he shall give his name and address and the name and address of the owner of the vehicle to any person affected by any such accident or damage who demands it provided such person also furnishes his name and address.

(2) The driver of a motor vehicle shall, on demand by a person giving his own name and address and alleging that the driver has committed an offence punishable under Section III, give his name and address to that person.

(3) In this section the expression "animal" means any horse, cattle, elephant, camel, ass, mule, sheep or goat.

Duty of owner of motor vehicle to give information.

84. The owner of a motor vehicle the driver of which is accused of any offence under this Act shall, on the demand of any police officer authorised in this behalf by Our Government, give all information regarding the name and address of and the licence held by the driver which is in his possession or could by reasonable diligence be ascertained by him.

Duty of driver in case of accident and injury to a person.

85. When any person is injured as the result of an accident in which a motor vehicle is involved, the driver of the vehicle or other person in charge of the vehicle shall :

(a) take all reasonable steps to secure medical attention for the injured person, and, if necessary, convey him to the nearest hospital, unless the injured person or his guardian, in case he is a minor, desires otherwise;

(b) give on demand by a police officer any information required by him, or if no police officer is present, report the circumstances of the occurrence at the nearest police station as soon as possible, and in any case within twenty four hours of the occurrence.

Inspection of vehicle involved in accident.

86. When any accident occurs in which a motor vehicle is involved, any person authorised in this behalf by Our Government may, on production if so required of his authority, inspect the vehicle and for that purpose may enter at any reasonable time any premises where the vehicle may be, and may remove the vehicle for examination:

Provided that the place to which the vehicle is so removed shall be intimated to the owner of the vehicle, and vehicle shall be returned without unnecessary delay.

Powers to make rules.

87. (1) Our Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the nature of the mechanical or electrical signalling devices which may be used on motor vehicles;

(*b*) the removal and the safe custody of vehicles including their loads which have broken down or which have been left standing or have been abandoned on roads;

(*c*) the installation and use of weighing devices;

(*d*) the exemption from all or any of the provisions of this Chapter of Fire Brigade vehicles, ambulances and other special classes of vehicles, subject to such conditions as may be prescribed;

(*e*) the maintenance and management of parking places and stands and the fees, if any, which may be charged for their use;

(*f*) prohibiting the driving down hill of a motor vehicle with the gear disengaged either generally or in a specified place;

(*g*) prohibiting the taking hold of or mounting of a motor vehicle in motion;

(*h*) prohibiting the use of foot-paths or pavements by motor vehicles;

(*i*) generally, the prevention of danger, injury or annoyance to the public or any person, or of danger or injury to property or of obstruction to traffic; and

(*j*) any other matter which is to be or may be prescribed.

CHAPTER VII.

INSURANCE OF MOTOR VEHICLES AGAINST THIRD PARTY RISKS.

88 In this Chapter —

Definitions:

(*a*) "authorised insurer" means an insurer in whose case the requirements of the Travancore Insurance Act, with respect to the registration of and deposits by insurers are complied with ; and

(*b*) "certificate of insurance" means a certificate issued by an authorised insurer in pursuance of sub-section (4) of section 90; and includes where more than one certificate has been. issued in connection with a policy, or where a copy of a certificate has been issued, all those certificates or that copy, as the case may be.

Necessity for insurance against third party risk.

89. (1) No person shall use except as a passenger or cause or allow any other person to use a motor vehicle in a public place, unless there is in force in relation to the use of the vehicle by that person or that other person, as the case may be, a policy of insurance complying with the requirements of this Chapter.

Explanation.—A person driving a motor vehicle merely as a paid employee, while there is in force in relation to the use of the vehicle no such policy as is required by this sub-section, shall not be deemed to act in contravention of the sub- section unless he knows or has reason to believe that there is no such policy in force.

(2) This section shall not apply to any vehicle owned by or on behalf of Our Government or a local authority notified in this behalf by Our Government, at any time when the vehicle is driven by a servant of the owner in the course of his employment, or is otherwise subject to the control of the owner.

Requirements of policies and limits of liability.

90. (1) In order to comply with the requirements of this Chapter, a policy of insurance must be a policy which—

(*a*) is issued by a person who is an authorised insurer, and

(*b*) insures the person or classes of person specified in the policy to the extent specified in sub-section (2) against any liability which may be incurred by him or them in respect of the death of or bodily injury to any person caused by or arising out of the use of the vehicle in a public place ;

Provided that a policy shall not, except as may be otherwise provided under sub-section (3), be required—

(i) to cover liability in respect of the death, arising out of and in the course of his employment, of the employee of a person insured by the policy or in respect of bodily injury sustained by such an employee arising out of and in the course of his employment, or

(ii) except where the vehicle is a vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment to cover liability in respect of the death of or bodily injury to persons being carried in or upon or entering or mounting or alighting from the vehicle at the time of the occurrence of the event out of which a claim arises, or

(iii) to cover any contractual liability.

(2) Subject to the proviso to sub-section (1) a policy of insurance shall cover any liability incurred in respect of any one accident up to the following limits, namely:—

(*a*) whether the vehicle is a vehicle used or adapted to be used for the carriage of goods, a limit of twenty thousand rupees;

(*b*) where the vehicle is a vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment, in respect of persons other than passengers carried for hire or reward, a limit of twenty thousand rupees; and in respect of passengers a limit of twenty thousand rupees in all, and four thousand rupees in respect of an individual passenger, if the vehicle is registered to carry not more than six passengers excluding the driver or two thousand rupees in respect of an individual passenger, if the vehicle is registered to carry more than six passengers excluding the driver;

(*c*) where the vehicle is a vehicle of any other class the amount of the liability incurred.

(3) Our Government may prescribe that a policy of insurance shall in order to comply with the requirements of this Chapter cover any liability arising under the provisions of the Travancore Workmen's Compensation Act, in respect of the death of or bodily injury to any paid employee engaged in driving or otherwise in attendance on or being carried in a motor vehicle.

(4) A policy shall be of no effect for the purposes of this Chapter unless and until there is issued by the insurer in favour of the person by whom the policy is effected a certificate of insurance

or a cover note in the prescribed form and containing the prescribed particulars of any conditions subject to which the policy is issued and of any other prescribed matters: and different forms, particulars and matters may be prescribed in different cases.

(5) Notwithstanding anything elsewhere contained in any law, a person issuing a policy of insurance under this section shall be liable to indemnify the person or classes of person specified in the policy in respect of any liability which the policy purports to cover in the case of that person or those classes of person.

Duty of insurers to satisfy judgments against persons insured in respect of third party risks.

91. (1) If, after a certificate of insurance or a cover note has been issued under sub-section (4) of Section 90 in favour of the person by whom a policy has been effected, judgment in respect of any such liability as is required to be covered by a policy under clause (b) of sub-section (1) of section 90 (being a liability covered by the terms of the policy) is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy, the insurer shall subject to the provisions of this section, pay to the person entitled to the benefit of the decree any sum not exceeding the sum assured payable thereunder, as if he were the judgment debtor, in respect of the liability, together with any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments.

(2) No sum shall be payable by an insurer under sub-section (1) in respect of any judgment unless before or after the commencement of the proceedings in which the judgment is given the insurer had notice through the Court of the bringing of the proceedings, or in respect of any judgment so long as execution is stayed thereon pending an appeal; and an insurer to whom notice of the bringing of any such proceedings is so given shall be entitled to be made a party thereto and to defend the action on any of the following grounds, namely :—

(*a*) that the policy was cancelled by mutual consent or by virtue of any provision contained therein before the accident giving rise to the liability, and that either the certificate of insurance was surrendered to the insurer or that the person to whom the certificate was issued has made an affidavit stating that the certificate has been lost or destroyed, or that either before or not later than fourteen days after the happening of the accident the insurer

has commenced proceedings for cancellation of the certificate after compliance with the provisions of section 100; or

(b) that there has been a breach of a specified condition of the policy, being one of the following conditions, namely :—

(i) a condition excluding the use of the vehicle—

(a) for hire or reward, where the vehicle is on the date of the contract of insurance a vehicle not covered by a permit to ply for hire or reward, or

(b) for organised racing and speed testing, or

(c) for a purpose not allowed by the permit under which the vehicle is used, where the vehicle is a public service vehicle or a goods vehicle, or

(d) without side-car being attached, where the vehicle is a motor cycle; or

(ii) a condition excluding driving by a named person or persons or by any person who is not duly licensed, or by any person who has been disqualified for holding or obtaining a driving license during the period of disqualification; or

(iii) a condition excluding liability for injury caused or contributed to by conditions of war, civil war, riot or civil commotion; or

(c) that the policy is void on the ground that it was obtained by the non-disclosure of a material fact or by a representation of fact which was false in some material particular.

(3) Where a certificate of insurance or cover note has been issued under sub-section (4) of section 90 to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby by reference to any conditions other than those in clause (b) of sub-section (2) shall, as respects such liabilities as are required to be covered by a policy under clause (b) of sub-section (1) of section 90, be of no effect:

Provided that any sum paid by the insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this sub-section shall be recoverable by the insurer from that person.

(4) If the amount which an insurer becomes liable under this section to pay in respect of a liability incurred by a person insured by a policy exceeds the amount for which the insurer would apart from the provisions of this section be liable under the policy in respect of that liability, the insurer shall be entitled to recover the excess from that person.

(5) In this section the expressions "material fact" and "material particular" mean, respectively, a fact or particular of such a nature as to influence the judgment of a prudent insurer in determining whether he will take the risk and if so, at what premium and on what conditions, and the expression "liability covered by the terms of the policy" means a liability which is covered by the policy or which would be so covered but for the fact that the insurer is entitled to avoid or cancel or has avoided or cancelled the policy.

(6) No insurer to whom the notice referred to in sub-section (2) has been given shall be entitled to avoid his liability to any person entitled to the benefit of any such judgment as is referred to in sub-section (1) otherwise than in the manner provided for in sub-section (2).

Rights of third parties against Insurers on insolvency of the insured.

92. (1) Where under any contract of insurance effected in accordance with the provisions of this Chapter a person is insured against liabilities which he may incur to third parties then—

(*a*) in the event of the person becoming insolvent or making a composition or arrangement with his creditors, or

(*b*) where the insured person is a company, in the event of a winding up order being made or a resolution for a voluntary winding up being passed with respect to the company or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the charge,

if, either before or after that event, any such liability is incurred by the insured person, his rights against the insurer under the contract in respect of the liability shall, notwithstanding anything to the contrary in any provision of law, be transferred to and vest in the third party to whom the liability was so incurred.

(2) Where an order for the administration of the estate of a deceased debtor is made according to the law of insolvency, then, if any debt provable in insolvency, is owing by the deceased in respect of a liability to a third party against which he was insured under a contract of insurance in accordance with the provisions of this Chapter, the deceased debtor's rights against the insurer in respect of that liability shall, not withstanding anything to the contrary in any provision of law, be transferred to and vest in the person to whom the debt is owing.

(3) Any condition in a policy issued for the purposes of this Chapter purporting either directly or indirectly to avoid the policy or to alter the rights of the parties thereunder upon the happening

to the insured person of any of the events specified in clause (a) or clause (b) of sub section (1) or upon the making of an order for the administration of the estate of a deceased debtor according to the law of insolvency shall be of no effect.

(4) Upon a transfer under sub-section (1) or sub-section (2) the insurer shall be under the same liability to the third party as he would have been to the insured person, but—

(*a*) if the liability of the insurer to the insured person exceeds the liability of the insured person to the third party, nothing in this Chapter shall affect the rights of the insured person against the insurer in respect of the excess, and

(*b*) if the liability of the insurer to the insured person is less than the liability of the insured person to the third party, nothing in this Chapter shall affect the rights of the third party against the insured person in respect of the balance.

Duty to give information as to insurance.

93. (1) No person against whom a claim is made in respect of any liability referred to in clause (b) of sub-section (1) of section 90 shall on demand by or on behalf of the person making the claim refuse to state whether or not he was insured in respect of that liability by any policy issued under the provisions of this Chapter, or would have been so insured if the insurer had not avoided or cancelled the policy, nor shall he refuse, if he was or would have been so insured to give such particulars with respect to that policy as were specified in the certificate of insurance issued in respect thereof.

(2) In the event of any person becoming insolvent or making a composition or arrangement with his creditors or in the event of an order being made for the administration of the estate of a deceased person according to the law of insolvency, or in the event of a winding up order being made or a resolution for a voluntary winding up being passed with respect to any company or of a receiver or manager of the company's business or undertaking being duly appointed or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge on any property comprised in or subject to the charge, it shall be the duty of the insolvent debtor, personal representative of the deceased debtor or company, as the case may be, or the official assignee or receiver in insolvency, trustee, liquidator, receiver or manager, or person in possession of the property to give at the request of any person claiming that the insolvent debtor, deceased debtor or company is under such liability to him as is covered by the provisions of this Chapter, such information as may reasonably be required by

him for the purpose of ascertaining whether any rights have been transferred to and vested in him by Section 92, and for the purpose of enforcing such rights, if any; and any such contract of insurance as purports whether directly or indirectly to avoid the contract or to alter the rights of the parties thereunder upon the giving of such information in the events aforesaid, or otherwise to prohibit or prevent the giving thereof in the said events, shall be of no effect.

(3) If, from the information given to any person in pursuance of sub-section (2) or otherwise, he has reasonable ground for supposing that there have or may have been transferred to him under this Chapter rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by the said sub-section on the persons therein mentioned.

(4) The duty to give the information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies thereof to be taken.

Settlement between insurers and insured persons.

94. (1) No Settlement made by an insurer in respect of any claim which might be made by a third party in respect of any liability of the nature referred to in clause (*b*) of sub-section (1) of Section 90 shall be valid unless such third party is a party to the settlement.

(2) Where a person who is insured under a policy issued for the purpose of this Chapter has become insolvent, or where, if such insured person is a company a winding up order has been made or a resolution for a voluntary winding up has been passed with respect to the company, no agreement made between the insurer and the insured person after liability has been incurred to a third party and after the commencement of the insolvency or winding up, as the case may be, nor any waiver, assignment or other disposition made by or payment made to the insured person after the commencement aforesaid shall be effective to defeat the rights transferred to the third party under this Chapter, but those rights shall be the same as if no such agreement, waiver, assignment or disposition or payment has been made.

Savings in respect of Sections 92, 93 and 94.

95. (1) For the purposes of Sections 92, 93 and 94, a reference to "liabilities to third parties" in relation to a person insured under any policy of insurance shall not include a reference to any liability of that person in the capacity of insurer under some other policy of insurance.

(2) The provisions of Sections 92, 93 and 94 shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of an amalgamation with another company.

Insolvency of insured persons not to affect liability of insured or claims by third parties.

96. Where a certificate of insurance has been issued to the person by whom a policy has been effected, the happening in relation to any person insured by the policy of any such event as is mentioned in sub-section (1) or sub-section (2) of Section 92 shall, notwithstanding anything in this Chapter, not affect any liability of that person of the nature referred to in clause (*b*) of sub-section (1) of Section 90; but nothing in this section shall affect any rights against the insurer conferred under the provisions of Sections 92, 93 and 94 on the person to whom the liability was incurred.

Effect of death on certain causes of action.

97. Notwithstanding anything contained in Section 89 of the Travancore Probate and Administration Act of 1105, the death of a person in whose favour a certificate of insurance or cover note had been issued, if it occurs after the happening of an event which has given rise to a claim under the provisions of this Chapter, shall not be a bar to the survival of any cause of action arising out of the said event against his estate or against the insurer.

Effect of certificate of insurance.

98. When an insurer has issued a certificate of insurance in respect of a contract of insurance between the insurer and the insured person then:—

(a) if and so long as the policy described in the certificate has not been issued by the insurer to the insured, the insurer shall as between himself and any other person except the insured, be deemed to have issued to the insured person a policy of insurance conforming in all respects with the description and particulars stated in such certificate; and

(b) if the insurer has issued to the insured the policy described in the certificate, but the actual terms of the policy are less favourable to persons claiming under or by virtue of the policy against the insurer either directly or through the insured than the particulars of the policy as stated in the certificate, the policy shall, as between the insurer and any other person except the insured, be deemed to be in terms conforming in all respects with the particulars stated in the said certificate,

Duty to surrender certificate on cancellation of policy.

99. (1) Whenever the period of cover under a policy of insurance issued under the provisions of this Chapter is terminated or suspended by any means before its expiration by effluxion of time, the insured person shall within seven days after such termination or suspension deliver to the insurer by whom the policy was issued the latest certificate of insurance given by the insurer in respect of the said policy, or, the said certificate has been lost or destroyed, make an affidavit to that effect.

(2) Whoever fails to surrender a certificate of insurance or to make an affidavit as the case may be, in accordance with the provisions of this section shall be punishable with fine which may extend to fifteen rupees for every day that the offence continues subject to a maximum of five hundred rupees.

Duty of insurer to notify registering authority cancellation or suspension of the policy.

100. Whenever a policy of insurance issued under the provisions of this Chapter is cancelled or suspended by the insurer who has issued the policy, the insurer shall within seven days notify such cancellation or suspension to the registering authority in whose records the registration of the vehicle covered by the policy of insurance is recorded or to such other authority as Our Government may prescribe.

Production of certificate of insurance.

101. (1) Any person driving a motor vehicle in any public place shall on being so required by a police officer in uniform produce the certificate of insurance relating to the use of the vehicle:

Provided that if the driver of a motor vehicle within seven days from the date on which the production of the certificate of insurance was so required, produces the certificate at such police station as may have been specified by him at the time its production was required he shall not be liable to conviction under this sub-section by reason only of failure to produce the certificate to the police officer.

(2) If, where owing to the presence of a motor vehicle in a public place an accident occurs involving bodily injury to another person, the driver of the vehicle does not at the time produce the certificate of insurance to a police officer, he shall produce the certificate of insurance at the police station at which he makes the report required by Section 85:

Provided that no person shall be liable to conviction under this sub-section by reason only of failure to produce his certificate of insurance if within seven days from the occurrence of the accident he produces the certificate at such police station as may be specified by

him to the police officer at the site of the accident or to the officer in charge of the police station at which he reported the accident.

(3) The owner of a motor vehicle shall give such information as he may be required by or on behalf of a police officer empowered in this behalf by Our Government to give for the purpose of determining whether the vehicle was or was not being driven in contravention of Section 89 and on any occasion when the driver was required under this section to produce his certificate of insurance.

(4) In this section the expression "produce his certificate of insurance" means produce for examination the relevant certificate of insurance or such other evidence as may be prescribed that the vehicle was not being driven in contravention of Section 89.

Production of certificates of insurance on application for authority to use vehicles.

102. Our Government may make rules requiring the owner of any motor vehicle when applying whether by payment of a tax or otherwise for authority to use the vehicle in a public place to produce such evidence as may be prescribed by those rules to the effect that either—

(a) on the date when the authority to use the vehicle comes into operation there will be in force the necessary policy of insurance in relation to the use of the vehicle by the applicant or by other persons on his order or with his permission, or

(b) the vehicle is a vehicle to which Section 89 does not apply.

Co-operative insurance.

103. (1) Our Government may, on the application of a co-operative society public service vehicle owners registered or deemed to have been registered under the Travancore Co-operative Societies Act, 1112 and subject to the control of the Registrar of Co-operative Societies, allow the society to transact the business of an insurer for the purposes of this Chapter as if the society were an authorised insurer subject to the following conditions, namely:—

(a) the society shall establish and maintain a fund of not less than twenty five thousand rupees for the first fifty vehicles or fractional part thereof and prorata for every additional vehicle in the possession of members of the society and the said fund shall be lodged in such custody as Our Government may prescribe and shall not be available for meeting claims or other expenses except in the event of the winding up of the society;

(b) the liability of the society shall be limited as specified in clause (b) of sub-section (2) of Section 90;

(c) the society shall, if required by Our Government re-insure against claims above a prescribed amount;

(d) the provisions of this Chapter, in so far as they relate to the protection of third parties and to the issue and production of certificates, shall apply in respect of any insurance effected by the society;

(e) an independent authority not associated with the society shall be appointed by Our Government to facilitate and assist in the settling of claims against the society;

(f) the society shall operate on an insurance basis, that is to say-

(i) it shall levy its premiums in respect of a period not exceeding twelve months, during which period the insured shall be held covered in respect of all accidents arising, subject to the limits of liability specified in clause (b) of sub-section (2) of Section 90;

(ii) it shall charge premiums estimated to be sufficient, having regard to the risks, to meet the capitalised value of all claims arising during the period of cover, together with an adequate charge for expenses attaching to the issue of policies and to the settlement of claims arising there number;

(g) the society shall furnish to the Registrar of Insurance the returns required to be furnished by insurers under the provisions of the Travancore Insurance Act, and the Registrar of Insurance may exercise in respect thereof any of the powers exercisable by him in respect of returns made to him under the said Act: and

(h) any provision of law applicable to the winding up of authorised insurance shall be equally applicable to the society.

(2) Except as provided in sub-section (1), the Travancore Insurance Act shall not apply to any co-operative society of public service vehicle owners allowed to transact the business of an insurer under this section.

Duty to furnish particulars of vehicle involved in accident.

104. The registering authority on the officer in charge of a police station shall, if so required by a person who alleges that he is entitled to claim compensation in respect of an accident arising out of the use of a motor vehicle, or if so required by an insurer against whom a claim has been made in respect of any motor vehicle, furnish to that person or to that insurer, as the case may be, on payment of the prescribed fee, any information at the disposal of the said authority or the said police officer relating to the identification marks and other particulars of the vehicle and the name and address of the person who was using the vehicle at the time of the accident or was injured by it.

Power to appoint persons to investigate and report on accidents.

105. Our Government may, by notification in Our Government Gazette, appoint a person or a body of persons to investigate and report on accidents involving the death of or bodily injury to any person arising out of the use of motor vehicles and the extent to which their claims to compensation have been satisfied and to advise and assist such persons or their representatives in presenting their claims for compensation:

Provided that nothing in this section shall confer on any such person or body of persons the right to adjudicate in any way on the liability of the insurer or on the amount of damages to be awarded except at the express desire of the insurer concerned.

Power to make rules.

106. (1) Our Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the forms to be used for the purposes of this Chapter;

(b) the making of applications for and the issue of lost or destroyed;

(c) the issue of duplicates to replace certificates of insurance lost or destroyed;

(d) the custody, production, cancellation and surrender of certificates of insurance;

(e) the records to be maintained by insurers of policies of insurance issued under this Chapter;

(f) the identification by certificates or otherwise of persons or vehicles exempted from the provisions of this Chapter;

(g) the furnishing of information respecting policies of insurance by insurers;

(h) the carrying into effect of the provisions of Section 103;

(i) adapting the provisions of this Chapter to vehicles brought into Travancore by persons making only a temporary stay therein by applying those provisions with prescribed modifications; and

(j) any other matter which is to be or may be prescribed.

CHAPTER VIII.

OFFENCES, PENALTIES AND PROCEDURE.

General provision for punishment of offences.

107. Whoever contravenes any provision of this Act or of any rule made thereunder shall, if no other penalty is provided for the offences be punishable with fine which may extend to twenty rupees, or, if having been previously convicted of any

offence under this Act he is again convicted of an offence under this Act, with fine which may extend to one hundred rupees.

108. Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction, or obstructs any person or authority in the discharge of any functions which such person or authority is required by or empowered under this Act to discharge, or, being required by or under this Act to supply any information, with-holds such information or gives information which he knows to be false or which he does not believe to be true, shall, if no other penalty is provided for the offence, be punishable; with fine which may extend to two hundred rupees.

Disobedience of orders, obstruction and refusal of information.

109. Whoever, being disqualified under this Act for holding or obtaining a licence, drives a motor vehicle in a public place or applies for or obtains a licence or not being entitled to have a licence issued to him free of endorsement, applies for or obtains a licence without disclosing the endorsement made on a licence previously held by him or, being disqualified under this Act for holding or obtaining a licence, uses in Travancore a licence such as is referred to in sub-section (2) of Section 9, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees, or with both and any licence so obtained by him shall be of no effect.

Offences relating to licences.

110. (1) Whoever drives a motor vehicle in contravention of Section 67 shall be punishable with fine which may extend to one hundred rupees.

Driving at excessive speed.

(2) Whoever causes any person who is employed by him or is subject to his control in driving to drive a motor vehicle in contravention of Section 67 shall be punishable with fine which may extend to two hundred rupees.

(3) No person shall be convicted of an offence punishable under sub-section (1) solely on the evidence of one witness to the effect that in the opinion of the witness such person was driving at a speed which was unlawful, unless that opinion is shown to be based on an estimate obtained by the use of some mechanical timing device.

(4) The publication of a time-table under which or the giving of any direction that, any journey or part of a journey is to be completed within a specified time shall, if in the opinion of the Court it is not practicable in the circumstances of the case for that journey or part of a journey to be completed in the specified time

without infringing the provisions of Section 67, be prima facie evidence that the person who published the time-table or gave the direction has committed an offence punishable under sub-section (2).

Driving recklessly or dangerously.

111. Whoever drives a motor vehicle at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case including the nature, condition and use of the place where the vehicle is driven and the amount of traffic which actually is at the time or which might reasonably be expected to be in the place, shall be punishable on a first conviction for the offence with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, and for a subsequent offence if committed within three years of the commission of a previous similar offence with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Driving while under the influence of drink or drugs.

112. Whoever while driving or attempting to drive a motor vehicle is under the influence of drink or a drug to such an extent as to be incapable of exercising proper control over the vehicle, shall be punishable for a first offence with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and for a subsequent offence if committed within three years of the commission of a previous similar offence with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Driving when mentally or physically unfit to drive.

113. Whoever drives a motor vehicle in any public place when he is to his knowledge suffering from any disease or disability calculated to cause his driving of the vehicle to be a source of danger to the public, shall be punishable for a first offence with fine which may extend to two hundred rupees and for a second or subsequent offence with fine which may extend to five hundred rupees.

Punishment for abetment of certain offences.

114. Whoever abets the commission of an offence under Sections 111, 112 or 113, shall be punishable with the punishment provided for the offence.

Racing and trials of speed.

115. Whoever without the written consent of Our Government permits or takes part in a race or trial of speed between motor vehicles in any public place shall be punishable with

imprisonment for a term which may extend to one month, or with fine which may extend to three hundred rupees, or with both.

Using vehicle in unsafe condition.

116. Any person who drives or causes or allows to be driven in any public place a motor vehicle or trailer while the vehicle has any defect, which such person knows of or could have discovered by the exercise of ordinary care and which is calculated to render the driving of the vehicle a source of danger to persons and vehicles using such place, shall be punishable with fine which may extend to two hundred and fifty rupees or, if as a result of such defect an accident is caused causing bodily injury or damage to property, with fine which may extend to five hundred rupees.

Sale of vehicle in or alteration of vehicle to a condition contravening this Act.

117. Whoever, being an importer of or dealer in motor vehicles, sells or delivers or offers to sell or deliver a motor vehicle or trailer in such condition that the use thereof in a public place would be in contravention of Chapter V or any rule made thereunder or alters the motor vehicle or trailer so as to render its condition such that its use in a public place would be in contravention of Chapter V or any rule made thereunder shall be punishable with fine which may extend to two hundred rupees :

Provided that no person shall be convicted under this section if he proves that he had reasonable cause to believe that the vehicle would not be used in a public place until it had been put into a condition in which it might lawfully be so used.

Using vehicle without permit.

118. (1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used or lets out a motor vehicle for use in contravention of the provisions of sub-section (1) of Section 40 shall be punishable for a first offence with fine which may extend to five hundred rupees, and for a subsequent offence if committed within three years of the commission of a previous similar offence with a fine which shall not be less than one hundred rupees and may extend to one thousand rupees.

(2) Nothing in this section shall apply to the use of a motor vehicle in an emergency for the conveyance of persons suffering from sickness or injury or for the transport of materials for repair or of food or materials to relieve distress or of medical supplies for a like purpose:

Provided that the person using the vehicle reports such use to the Transport Authority within seven days.

Driving vehicle exceeding permissible weight.

119. Whoever drives a motor vehicle or causes or allows motor vehicle to be driven in contraventi of the provisions of Section 68 or of t conditions of any permit issued thereun or in contravention of any prohibition restriction imposed under Section 70 shall be punishable fo first offence with fine which may extend to one hundred rup and for a second or subsequent offence with fine which may exte to five hundred rupees.

Driving un-insured vehicle.

120. Whoever drives a motor vehicle or causes or allows a mot vehicle to be driven in contravention of t provisions of Section 89 shall be punisha with imprisonment which may extend three months, or with fine which may exten to five hundred rupees, or with both.

Taking vehicle without authority.

121. Whoever takes and drives away any motor vehicle with having either the consent of the owner ther or other lawful authority shall be punisha with imprisonment which may extend three months, or with fine which may extend to five hundred rupe or with both:

Provideid that no accused person shall be convicted und this section if the Court is satisfied that the accused acted in t reasonable belief that he had lawful authority or in the reasona belief that the owner would in the circumstances of the case ha given his consent if he had been asked therefor.

Unauthorised interference with vehicle.

122. Whoever otherwise than with lawful authority or reas able excuse enters or mounts any station motor vehicle or tampers with the brake any part of the mechanism of a mo vehicle shall be punishable with fine which may extend one hundred rupees.

Power of arrest without warrant.

123. (1) A police officer in uniform may arrest without wa rant any person who commits in h view an offence punishable under Section 11 or Section 112 or Section 121:

Provided that any person so arrested in connection with an o fence punishable under Section 112 shall be subjected to a medic examination by a qualified medical practitioner within two hours o his arrest or shall then be released from custody.

(2) A police officer in uniform may arrest without wa rant—

(a) any person who being required under the provisions of this Act to give his name and address refuses to do so or gives a name or address which the police officer has reason to believe to be false, or

(b) any person concerned in an offence under this Act or reasonably suspected to have been so concerned, if the police officer has reason to believe that he will abscond or otherwise avoid the service of a summons.

(3) A police officer arresting without warrant the driver of a motor vehicle shall, if the circumstances so require, take or cause to be taken any steps he may consider proper for the temporary disposal of the vehicle.

Power of police officer to impound document.

124. (1) Any police officer authorised in this behalf or other person authorised in this behalf by Our Government may, if he has reason to believe that any identification mark carried on a motor vehicle or any licence, permit, certificate of registration, certificate of insurance, or other document produced to him by the driver or person in charge of a motor vehicle is a false document within the meaning of Section 456 of the Travancore Penal Code, seize the mark or document and call upon the driver or owner of the vehicle to account for his possession of or the presence in the vehicle of such mark or document.

(2) Any police officer authorised in this behalf by Our Government may, if he has reason to believe that the driver of a motor vehicle who is charged with any offence under this Act, may abscond or otherwise avoid the service of a summons, seize any licence held by such driver and forward it to the Court taking cognizance of the offence.

(3) A police officer seizing a licence under sub-section (2) shall give to the person surrendering the licence a temporory acknowledgment therefor and such acknowledgment shall authorise the holder to drive until the licence has been returned to him or the Court has otherwise ordered.

Summary disposal of cases.

125. A Court taking cognizance of an offence under this Act may, unless the offence is an offence specified in Part A of the Fourth Schedule state upon the summons to be served on the accused person that he—

(a) may appear by pleader and not in person, or

(b) may by a specified date prior to the hearing of charge plead guilty to the charge by registered letter and remit to the Court such sum not exceeding twenty-five rupees as the Court may specify.

(2) Where the offence dealt with in accordance with sub-section (1) is an offence specified in part B of the Fourth Schedule, the accused person shall, if he pleads guilty to the charge, forward his licence to the Court with the letter containing his plea in order that the conviction may be endorsed on the licence.

(3) Where an accused person pleads guilty and remits the sum specified and has complied with the provisions of sub-section (2), no further proceedings in respect of the offence shall be taken against him, nor shall he be liable to be disqualified for holding or obtaining a licence by reason of his having pleaded guilty.

Restriction on conviction.

126. No person prosecuted for an offence punishable under Section 110 or Section 111 shall be convicted unless—

(*a*) he was warned at the time the offence was committed that the question of prosecuting him would be taken into consideration, or

(*b*) within fourteen days from the commission of the offence, a notice specifying the nature of the offence and the time and place where it is alleged to have been committed was served on or sent by registered post or anchal to him or the person registered as the owner of the vehicle at the time of the commission of the offence, or

(*c*) within twenty-eight days of the commission of the offence, a summons for the offence was served on him:

Provided that nothing in this section shall apply where the Court is satisfied that—

(*a*) the failure to serve the notice or summons referred to in this sub-section was due to the fact that neither the name and address of the accused nor the name and address of the registered owner of the vehicle could with reasonable diligence have been ascertained in time or,

(*b*) such failure was brought about by the conduct of the accused.

Jurisdiction of Courts.

127. No Court inferior to that of a Magistrate of the second class shall try any offence punishable under this Act or any rule made thereunder.

CHAPTER IX.

Miscellaneous.

Power of Government to make rules.

128. Our Government may make rules for all or any of the following purposes—

(i) for the grant and authentication of any travelling passes, certificates or authorities for the use of persons temporarily taking their motor vehicles out of Travancore or to drivers of such vehicles, when proceeding out of Travancore for the purpose of driving such vehicles, and

(ii) prescribing the conditions subject to which motor vehicles, brought temporarily into Travancore by persons intending to make a temporary stay in Travancore, may be possessed, used and driven.

Publication of and commencement of rules.

129. (1) Every power to make rules given by this Act is subject to the condition of the rules being made after previous publication.

(2) All rules made under this Act shall be published in Our Government Gazette, and shall, unless some later date is appointed, come into force on the date of such publication.

Repeal.

130. The Travancore Motor Vehicles Act of 1094, is hereby repealed.

THE SCHEDULES.

THE FIRST SCHEDULE.

FORMS.

FORM A (SEE SECTION 7 (2).

Form of application for licence to drive a motor vehicle.

I.

Application—I apply for licence to enable me to drive $\dfrac{\text{as a paid employee}}{\text{*otherwise than as a paid employee}}$ * vehicles of the following description :—

(a) motor cycles, (b) motor cars, (c) invalid carriages, (d) motor cabs, (e) delivery vans, (f) light transport vehicles $\dfrac{\text{*including}}{\text{excluding}}$ public service vehicles, (g) heavy transport vehicles * $\dfrac{\text{including}}{\text{excluding}}$ public service vehicles, (h) tractors, (i) road-rollers (j) locomotives, (k) a vehicle of a special type (description attached) constructed or adapted to be driven by me

* Strike out whichever inapplicable.

II.

Particulars to be furnished by the Applicant.

1. Full name and name of father, 2. Permanent address, 3. Temporary address, 4. Age at date of application, 5. Particulars of any licence previously held by applicant, 6. Particulars and date of every conviction which has been ordered to be endorsed on any licence held by the applicant, 7. Have you been disqualified for obtaining a licence to drive? If so, for what reason? 8. Have you been subjected to a driving test as to your fitness or ability to drive a vehicle in respect of which a licence to drive is applied for? If so, give date, testing authority and result of test? 9. Have you ever been refused a license to drive by the licensing authority in Travancore or elsewhere? If so, state particulars.

III.

Declaration as to physical fitness of applicant.

The applicant is required to answer "Yes" or "No" in the space provided opposite each question :—

(a) Do you suffer from epilepsy, or from sudden attacks of disabling giddiness or fainting?

(b) Are you able to distinguish with each eye at a distance of 25 yards in good day light (with glasses, if worn) a motor car number plate containing seven letters and figures?

(c) Have you lost either hand or foot or are you suffering from any defect in movement, control or muscular power of either arm or leg?

(d) Can you readily distinguish the pigmentary colours, red and green?

(e) Do you suffer from night blindness?

(f) Do you suffer from a defect of hearing?

(g) Do you suffer from any other disease or disability likely to cause your driving of a motor vehicle to be a source of danger to the public? If so, give particulars.

I declare that to the best of my information and belief the particulars given in Section II and the declaration made in Section III hereof are true

Note.—An applicant who answers "Yes" to questions (b) and (d) in the declaration and "No" to the other questions may claim to be subjected to a test as to his competency to drive vehicles of a specified type or types.

Date, 11 .

Signature or thumb impression of Applicant.

CERTIFICATE OF TEST OF ABILITY TO DRIVE.

The applicant has passed / failed in the test specified in the Third Schedule to the Travancore Motor Vehicles Act, 111 The test was conducted on a *... ... .on date
Signature of testing authority
Duplicate signature or thumb impression of applicant.
* Here enter description of vehicle.

FORM B.

(SEE SECTION 11 (2)

FORM OF APPLICATION FOR RENEWAL OF DRIVING LICENCE.

I hereby apply for a renewal of the licence under the Travancore Motor Vehicles Act, 111 . which was issued to me on the by (state title of licensing authority).

I hereby declare that I am not subject to any disease or disability likely to cause my driving of a motor vehicle to be a source of danger to the public.

Signature of Applicant.

Date 11.........

FORM C.

(SEE SECTION 7 (3) AND SECTION 12).

Form of medical certificate in respect of an applicant for a licence to drive any transport vehicle or to drive any vehicle as a paid employee.

(To be filled up by a qualified medical practitioner.)

1. What is the applicant's apparent age ?

2 Is the applicant, to the best of your judgment, subject to epilepsy, vertigo, or any mental ailment likely to affect his efficiency ?

3. Does the applicant suffer from any heart or lung disorder which might interfere with the performance of his duties as a driver?

4. (a) Is there any defect of vision ? If so, has it been corrected by suitable spectacles ?

(b) Can the applicant readily distinguish the pigmentary colours red and green ?

(c) Does the applicant suffer from night blindness ?

(d) Does the applicant suffer from a degree of deafness which would prevent his hearing the ordinary sound signals ?

5. Has the applicant any deformity or loss of members which would interfere with the efficient performance of his duties as a driver ?

6. Does he show any evidence of being addicted to the excessive use of alcohol, tobacco or drugs ?

7. Is he, in your opinion, generally fit, as regards (a) bodily health and (b) eye-sight?

8. Marks of identification.

I certify that, to the best of my knowledge and belief the applicant is the person herein above described, and that the attached photograph is a reasonably correct likeness.

(Space for photograph)

(Signature) Name. Designation.

NOTE.—Special attention should be directed to distant vision and to the condition of the arms and hands and the joints of both extremities.

FORM D.

(SEE SECTION 8 (1) DRIVING LICENCE 11.)

No.

Photograph

(Name) Son/daughter of (father's name)
of (Permanent address)—
(temporary address)—

Signature or thumb impression* is licensed to drive vehicles of the following description:—(a) Motor cycle, (b) Motor car, (c) Motor cab, (d) Delivery van, (e) Light transport vehicle, (f) Heavy transport vehicle, (g) Locomotive, (h) Tractor, (i) Invalid carriage, (j) Road-roller, (k) A motor vehicle hereunder described.—

He is also authorised to drive as a paid employee*

This licence is valid from to

*(To be struck out if inapplicable).

Date 11 Signature and Designation of Licensing Authority.

AUTHORISATION TO DRIVE A PUBLIC SERVICE VEHICLE.

So long as this licence is valid and is renewed from time to time, the holder is authorised to drive a public service vehicle.

Date 11 Signature of Licensing Authority.

This licence is hereby renewed up to
the day of 11
the day of 11

ENDORSEMENTS.

Date.	Section and Rule.	Fine or other punishment.	Signature of Endorsing Authority.
...	...	...	...

FORM E.

[SEE SECTION 23 (1)].

FORM OF APPLICATION FOR THE REGISTRATION OF A MOTOR VEHICLE.

1. Full name, name of father, and address of the person to be registered as registered owner.

2. Class of vehicle. 3. Type of body. 4. Maker's name. 5. Year of manufacture. 6. Number of cylinders. 7. Horse power. 8. Maker's classification or, if not known, wheel-base. 9. Chassis number. 10. Engine number. 11. Seating capacity (including driver). 12. Unladen weight. 13. Particulars of previous registration and registered number (if any).

Additional particulars to be completed only in the case of transport vehicle other than motor cabs. 14. Number, description and size of tyres. (*a*) front axle, (*b*) rear axle, (*c*) any other axle. 15. Maximum laden weight lbs. 16. Maximum axle weight, (*a*) front axle, lbs. (*b*) rear axle, lbs. (*c*) any other axle, lbs.

The above particulars are to be filled in for a rigid frame motor vehicle of two or of three axles, for an articulated vehicle of three axles, or, to the extent applicable for a trailer (other than the trailer to be registered as part of an articulated vehicle, as the case may be. Where a second trailer or additional trailers are to be registered with an articulated motor vehicle, the following particulars are to be furnished for each such trailer:—

17. Type of body. 18. Unladen weight. 19. Number description and size of tyres on the axle. 20. Maximum axle weight.

Date 11. Signature of applicant.

Explanation. An articulated vehicle means a tractor to which a trailer is attached in such a manner that part of the trailer

is superimposed on and part of the weight of the trailer is borne by the tractor.

NOTE.—The motor vehicle above described is held by the person to be registered as the registered owner, under the hire purchase agreement with

Signature of owner

Signature of Hire Purchase Company,

FORM F.

[SEE SECTION 34 (1)].

Document to be furnished by the maker or authorised assembler in the case of transport vehicles other than motor cabs.

Certified that the vehicle, chassis No. and Engine No. is designed for maximum weight as follows when fitted with the tyre-equipment specified below:—

Maximum laden weight lbs. Maximum weight front axle lbs.

Maximum weight rear axle lbs.

Maximum weight any other axle lbs.

Tyres. Front wheels

Rear wheels

Other wheels.

Signature of maker or authorised assembler.

Special certificate to be furnished by an assembler.

Certified that I am authorised by the maker of the vehicle described above to issue this certificate.

Signature of authorised assembler,

FORM G.

[SEE SECTION 23 (2)].

FORM OF CERTIFICATE OF REGISTRATION.

Register number,

Brief description of vehicle e. g., Ford touring car, Chevrolet 22 seater bus, Albion Lorry, trailer, etc.)

Name, name of father, and address of Registered owner.

Signature of registering authority.

Transferred to Signature of registering authority.

Transferred to Signature of registering authority.

Detailed description.

1. Class of vehicle. 2. Maker's name. 3. Type of body 4. Year of manufacture 5. Number of cylinders. 6. Chassis number. 7. Engine number. 8. Horsepower. 9. Maker's

classification or, if not known, wheel-base, 10 Seating capacity (including driver). 11, Unladen weight.

Additional particulars in the case of all transport vehicles other than motor cabs. 12. Registered laden weight. 13. Number, description and size of tyres:— (a) front axle, (b) rear axle (c) any other axle. 14. Registered axle weight (a) front axle lbs. (b) rear axle lbs. (c) any other axle lbs.

Additional particulars of alternative or additional trailer or trailers registered with an articulated vehicle. 15. Type of body. 16. Unladen weight lbs. 17. Number, description and size of tyres on the axle. 18. Registered axle weight lbs.

Date 11 . Signature of registering authority.

NOTE.—The motor vehicle above described is held by the person registered as the registered owner under hire-purchase agreement with.

Date. Signature of registering authority.

FORM H.

[SEE SECTION (36)].

Certificate of fitness (applicable in the case of transport vehicles only).

Vehicle No. is certified as complying with the provisions of Chapter V of the Travancore Motor Vehicles Act 111 and the rules made thereunder.

This certificate will expire on

Date 11 . .

Signature and Designation
of Inspecting Authority.

The certificate of fitness is hereby renewed

up to 11 . Signature of Inspecting Authority.
up to 11 .
up to 11 .

THE SECOND SCHEDULE.

[SEE SECTION 7 (5)].

I. Diseases and disabilities absolutely disqualifying a person for obtaining a License to drive a motor vehicle.

1. Epilepsy. 2. Lunacy. 3. Heart disease likely to produce sudden attacks of giddiness or fainting. 4. Inability to distinguish with each eye at a distance of twenty-five yards in good day light (with the aid of glasses, if worn) a series of seven letters and figures in white on a black ground of the same size and arrangement as those of the registration mark of a motor car, 5. A degree of

deafness which prevents the applicant from hearing the ordinary sound signals. 6. Inability readily to distinguish the pigmentary colours, red and green.

7. Night-blindness.

II. Diseases and disabilities absolutely disqualifying a person for obtaining a licence to drive a public service vehicle.

1. Leprosy.

THE THIRD SCHEDULE.

[SEE SECTIONS 7 (6) (a) AND 16 (6)].

TEST OF COMPETENCE TO DRIVE.

PART I.

The candidate shall satisfy the person conducting the test that he is able to—

1. Start the engine of the vehicle.
2. Move away straight ahead or at an angle.
3. Overtake, meet or cover the path of other vehicles and take an appropriate course.
4. Turn right and left corners correctly.
5. Stop the vehicle in an emergency and normally, and in the latter case bring it to rest at an appropriate part of the road.
6. Drive the vehicle backwards and whilst so doing enter a limited opening either to right or left.
7. Cause the vehicle to face in the opposite direction by means of forward and reverse gears.
8. Give by hand and by mechanical means (if fitted to the vehicle) or, in the case of a disabled driver for whom it is impracticable or undesirable to give signals by hand, by mechanical means, in a clear and unmistakable manner, appropriate signals at appropriate times to indicate his intended actions.
9. Act correctly and promptly on all signals given by traffic signs and traffic controllers, and take appropriate action on signs given by other road users.

NOTE:—(i) Requirements 6 and 7 are not applicable in the case of a motor cycle or tri-cycle not equipped with means for reversing.

(ii) Requirements 6, 7 and 8 are not applicable in the case of invalid carriages.

PART II.

The candidate shall satisfy the person conducting the test that he is cognizant of the provisions of Sections 77, 78, 79, 80 and 81 and of the Eighth Schedule; that he knows the meaning of the traffic signs specified in the Seventh Schedule; and, if he has not been medically examined that, he is not so deaf as to be unable to hear the ordinary sound signals, and is able to distinguish with each eye at a distance of twenty-five yards in good day light (with the aid of glasses, if worn) a registration mark containing seven letters and figures.

THE FOURTH SCHEDULE.

[SEE SECTIONS 18 (2) AND (3) AND 125].

OFFENCES ON CONVICTION OF WHICH AN ENDORSEMENT SHALL BE MADE ON THE LICENSE OF THE PERSON AFFECTED.

PART A.

1. Driving recklessly or dangerously (Section 111).
2. Driving while under the influence of drink or drugs (Section 112).
3. Abetment of an offence under Section 111 or 112 (Section 114).
4. Taking part in unauthorised race or trial of speed (Section 115).
5. Driving when disqualified (Section 17).
6. Obtaining or applying for a licence without giving particulars of endorsement (Section 109).
7. Failing to stop on the occurrence of an accident (Section 83).
8. Altering a licence or using an altered licence.
9. Any offence punishable with imprisonment in the commission of which a motor vehicle was used.

PART B.

1. Driving without a licence, or without a licence which is effective, or without a licence applicable to the vehicle driven (Section 3).
2. Allowing a licence to be used by another person [Section 6 (2)].
3. Driving at excessive speed (Section 110).
4. Driving when mentally or physically unfit to drive (Section 113).
5. Abetment of an offence punishable under Section 110 or 113.
6. Refusing or failing within specified time to produce licence (Section 82).

7. Failing to stop when required (Section 83).
8. Driving an unregistered vehicle (Section 21).
9. Driving a transport vehicle not covered by a certificate of fitness (Section 36).
10. Driving in contravention of any rule made under Section 66 (2) (g) relating to speed-governors.
11. Driving a vehicle exceeding the permissible limit of weight (Section 119).
12. Failure to comply with a requisition made under Section 69.
13. Using a vehicle in unsafe condition (Section 116).
14. Driving a transport vehicle in contravention of Section 40.

THE FIFTH SCHEDULE.

(SEE SECTION 35).

Maximum Axle weights permissible for Transport Vehicles.

TABLE A.

For each low pressure pneumatic tyre, fitted to a wheel on the axle of a nominal size is given the permissible weight in pounds against it.

5·00-17	980	7·00-16	1,675	9·00-20	3,550
5·25-17	1,060	7·00-17	1,850	9·00-22	3,550
5·25-18	1,100	7·00-18	2,050	9·00-24	3,650
5·50-17	1,140	7·00-20	2,200	9·75-15	3,175
5·50-18	1,195	7·50-15	1,700	9·75-18	3,900
5·50-20	1,225	7·50-16	2,050	9·75-20	4,200
6·00-16	1,200	7·50-17	2,150	9·75-22	4,200
6·00-17	1,350	7·50-18	2,450	9·75-24	4,400
6·00-18	1,450	7·50-20	2,650	10·50-20	4,850
6·00-20	1,550	7·50-24	2,650	10·50-22	5,000
6·25-16	1,300	8-25-18	2,900	10·50-24	5,200
6·50-16	1,400	8·25-20	3,100	11·25-20	5,450
6·50-17	1,550	8·25-22	3,100	11·25-22	5,800
6·50-18	1,700	8·25-24	3,100	11·25-24	6,050
6·50-20	1,850	9·00-15	2,650		
7·00-15	1,500	9·00-18	3,300		

TABLE B.

For each high pressure pneumatic tyre fitted to a wheel on the axle, of a nominal size is the given permissible weight in pounds against it.

30 × 5	2,000	32 × 6½	2,950	40 × 8	4,400
33 × 5	2,000	32 × 7	3,000	38 × 9	4,850
34 × 5	2,000	34 × 7	3,300	40 × 9	5,100
35 × 5	2,000	36 × 7	3,300	42 × 9	5,300
32 × 6	2,650	38 × 7	3,300	40 × 10	5,700
34 × 6	2,650	36 × 8	4,000	44 × 10	6,150
36 × 6	2,650	38 × 8	4,200		

Explanation.— The figures "5·00-17",etc., in Table A represent respectively the nominal sectional diameter of the tyre and the diameter of the wheel rim; and the figures "30 x 5", etc., in Table B represent, respectively the over-all diameter of wheel and tyre and the nominal sectional diameter of the tyre, all figures being in inches. The actual sectional diameter of the tyre when mounted on its appropriate rim and inflated shall in no case be less than the nominal sectional diameter.

Note:—Tyres may be calibrated in so-called metric sizes, for example, "170 x 20". In that case the first number represents the sectional diameter of the tyre in millimetres and the second number represents the diameter of the rim in inches. The permissible weight in pounds for each such tyre shall be determined by dividing the nominal sectional diameter of the tyre in millimetres by the figure 25.4 the quotient being the nominal sectional diameter in inches. The permissible weight given in Table A for the nearest equivalent nominal sectional diameter in inches and the actual rim-diameter shall be the permissible weight for that tyre.

THE SIXTH SCHEDULE.

(See Section 67).

Limits of Speed for Motor Vehicles.

Class of Vehicle.	*Maximum speed per hour.* *Miles*
1. Passenger vehicles, that is to say, vehicles constructed solely for the carriage of passengers and their effects:—	
(a) if all the wheels are fitted with pneumatic tyres and the vehicle is not drawing a trailer:—	
(i) if the vehicle is a motor cycle, motor car or motor cab	30
(ii) if the vehicle is a public service vehicle other than a motor cab	25

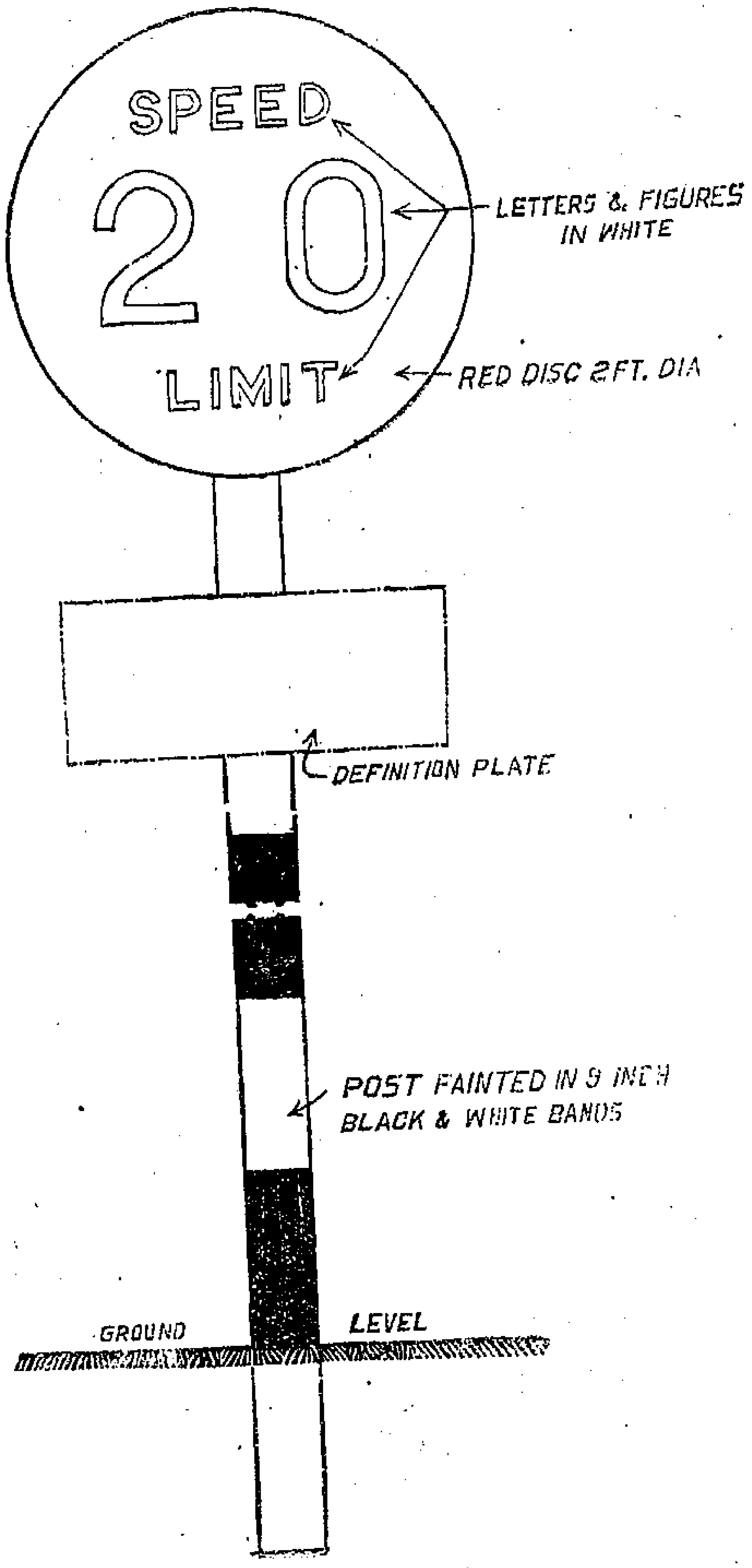
	Miles.
if the vehicle, being a motor car or motor cab, is drawing two-wheeled trailer of a laden weight not exceeding 1700 lbs. avoirdupois and if all the wheels of the vehicle and trailer are fitted with pneumatic tyres	25
(c) any other vehicle, including an invalid carriage	25
2. Goods vehicles, that is to say, vehicles constructed or adapted for use or used for the conveyance of goods:—	
(a) if all the wheels are fitted with pneumatic tyres and the vehicle is a light transport vehicle and is not drawing a trailer	20
(b) in any other case.	15
3. Tractors—	
(a) if drawing not more than one trailer and all the wheels of the tractor and trailer are fitted with pneumatic tyres	15
(b) in any other case	6
4. Locomotive, whether drawing a trailer or not.	6

THE SEVENTH SCHEDULE.
(*See* sections 71, 73 and 74).
TRAFFIC SIGNS.

Part A—Mandatory Signs.

No. 1

SPEED LIMIT

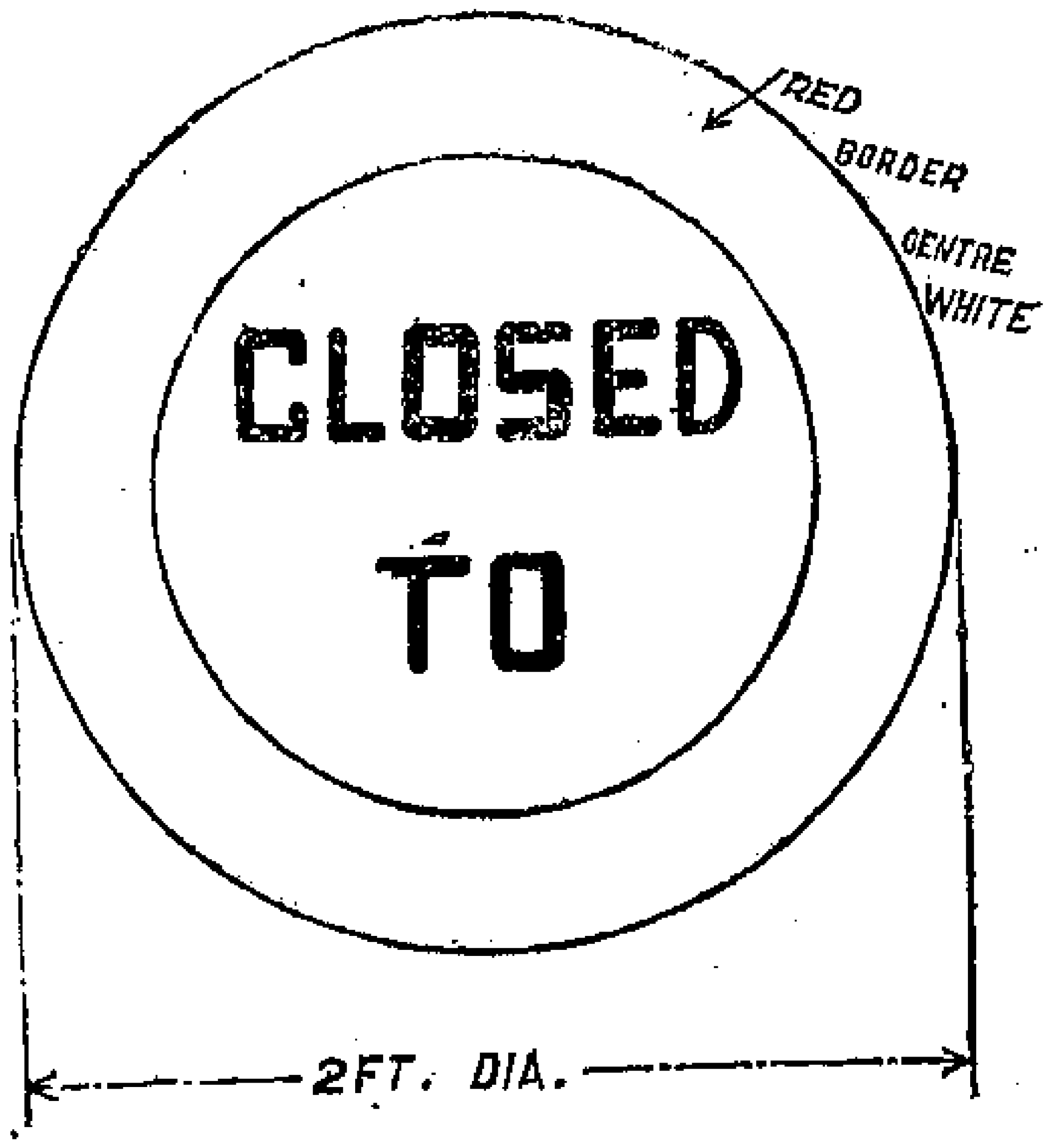


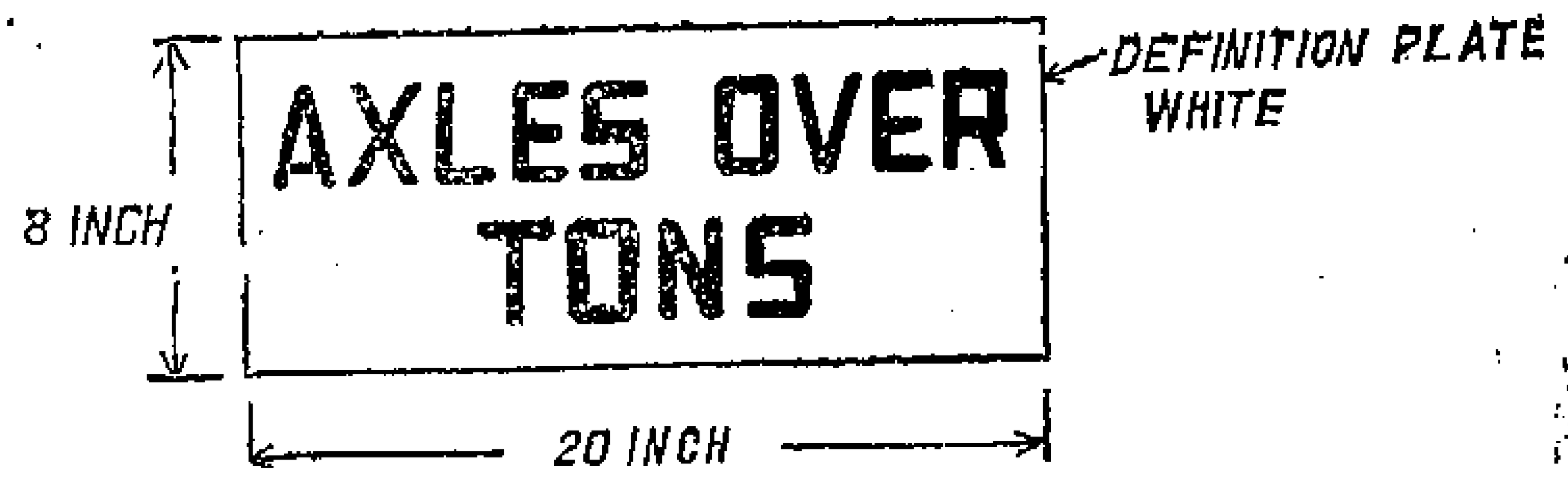
NOTE :— (1) The figure 20 is given merely as an example. The actual figures will be as prescribed in each case where this sign is used.

(2) The general design of the post is given for guidance.

(3) Where the speed limit is, or is to be, imposed only on a certain class or classes of motor vehicle the class or classes will be specified on the "definition plate". Where in addition to a general speed limit applicable to other motor vehicles a special speed limit is, or is to be, imposed on vehicles of a certain class or classes, the general speed limit will be specified on the disc and the special speed limit together with the class or classes of vehicle to which it applies will be specified on the "definition plate".

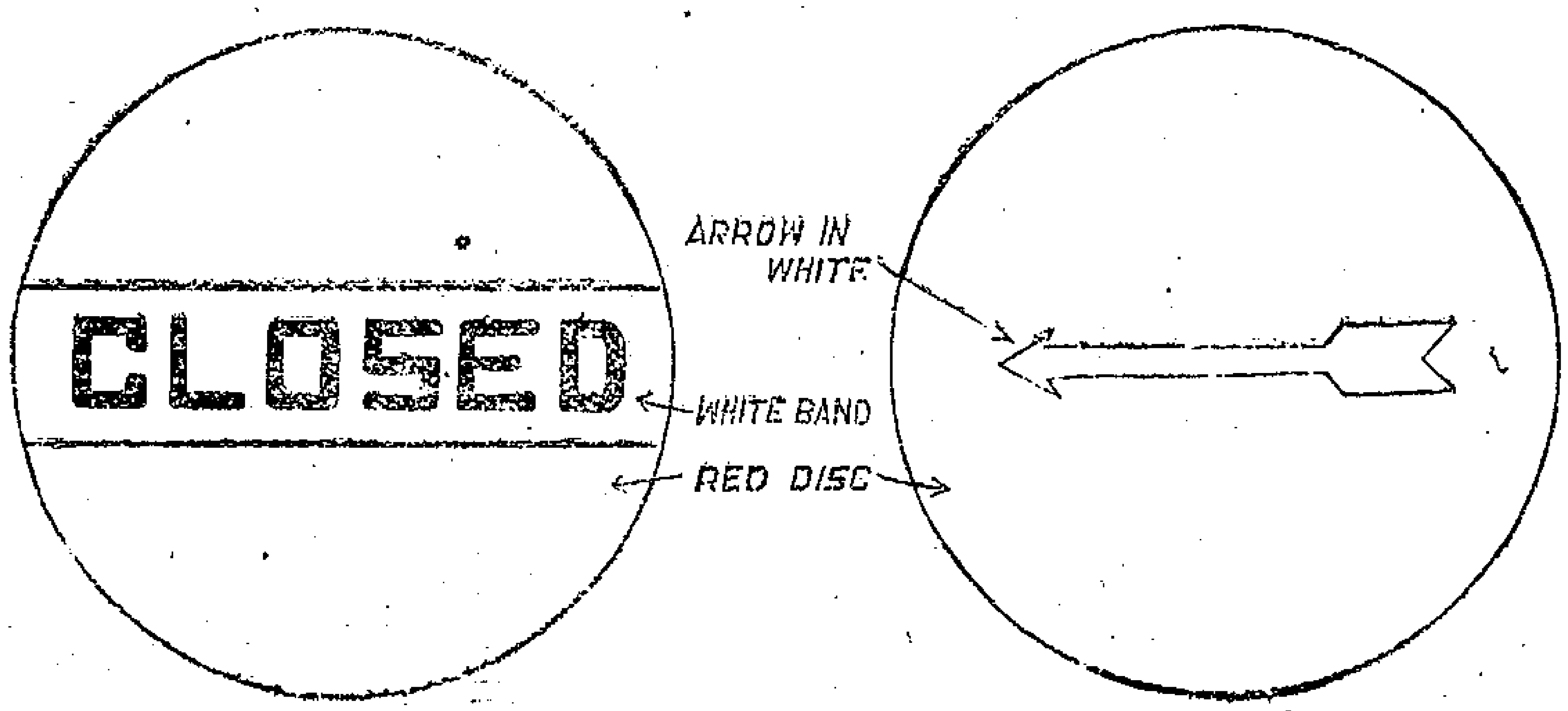
WEIGHT LIMIT





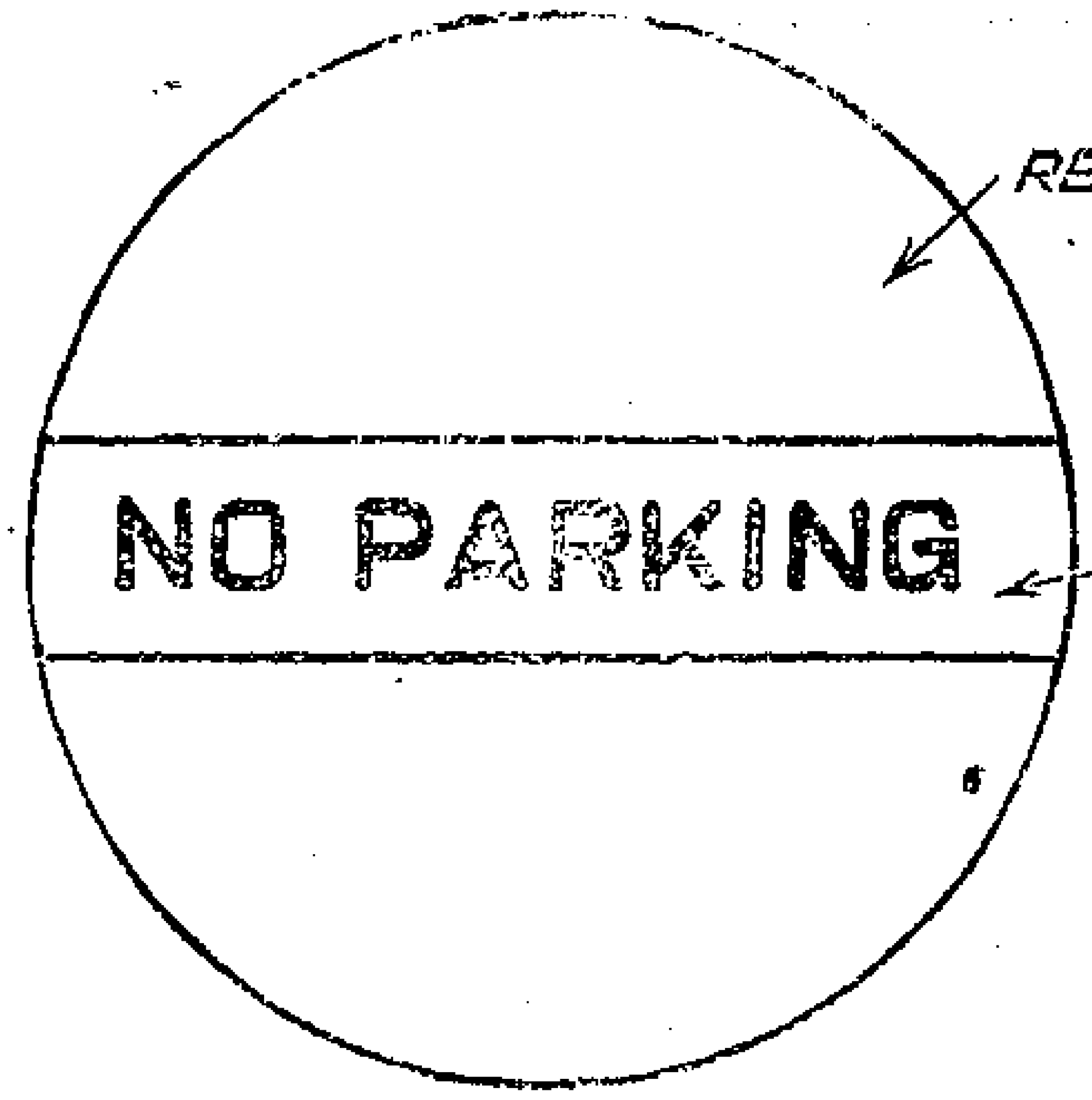
No. 3. *TOTAL PROHIBITION*

No. 4. *DIRECTION SIGN*



No. 5.

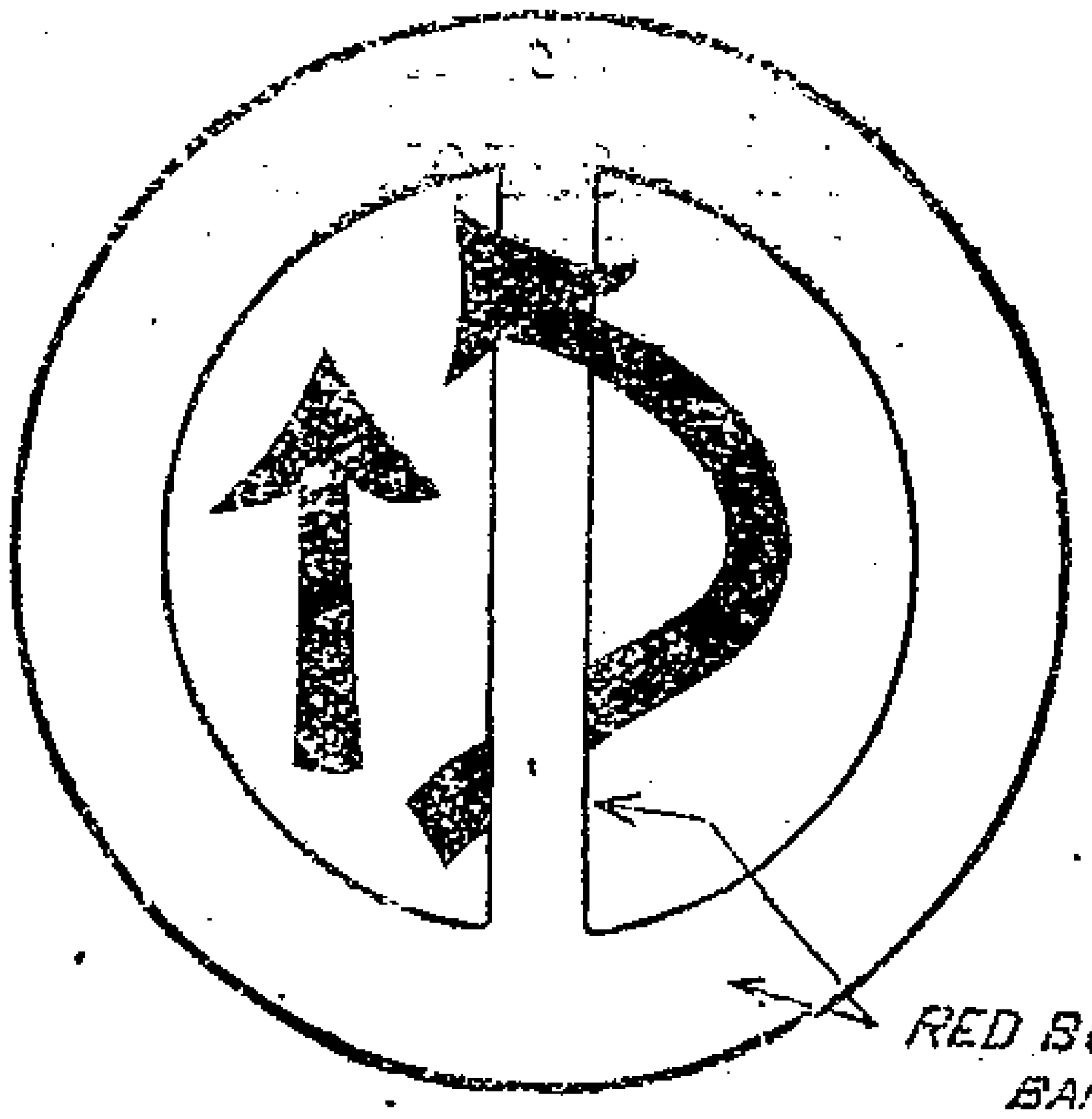
NO PARKING.



Note:—Sign No. 5 as here set forth may be amplified by instructions inscribed upon a definition plate placed below it as in the general arrangement set forth in Sign No. 1 of this Part. Upon the definition plate may be set forth the times during which parking is prohibited. In like manner an arrow-head inscribed on the definition plate will indicate that parking is prohibited on the part of that street or road lying to the side of the sign to which the arrow head points.

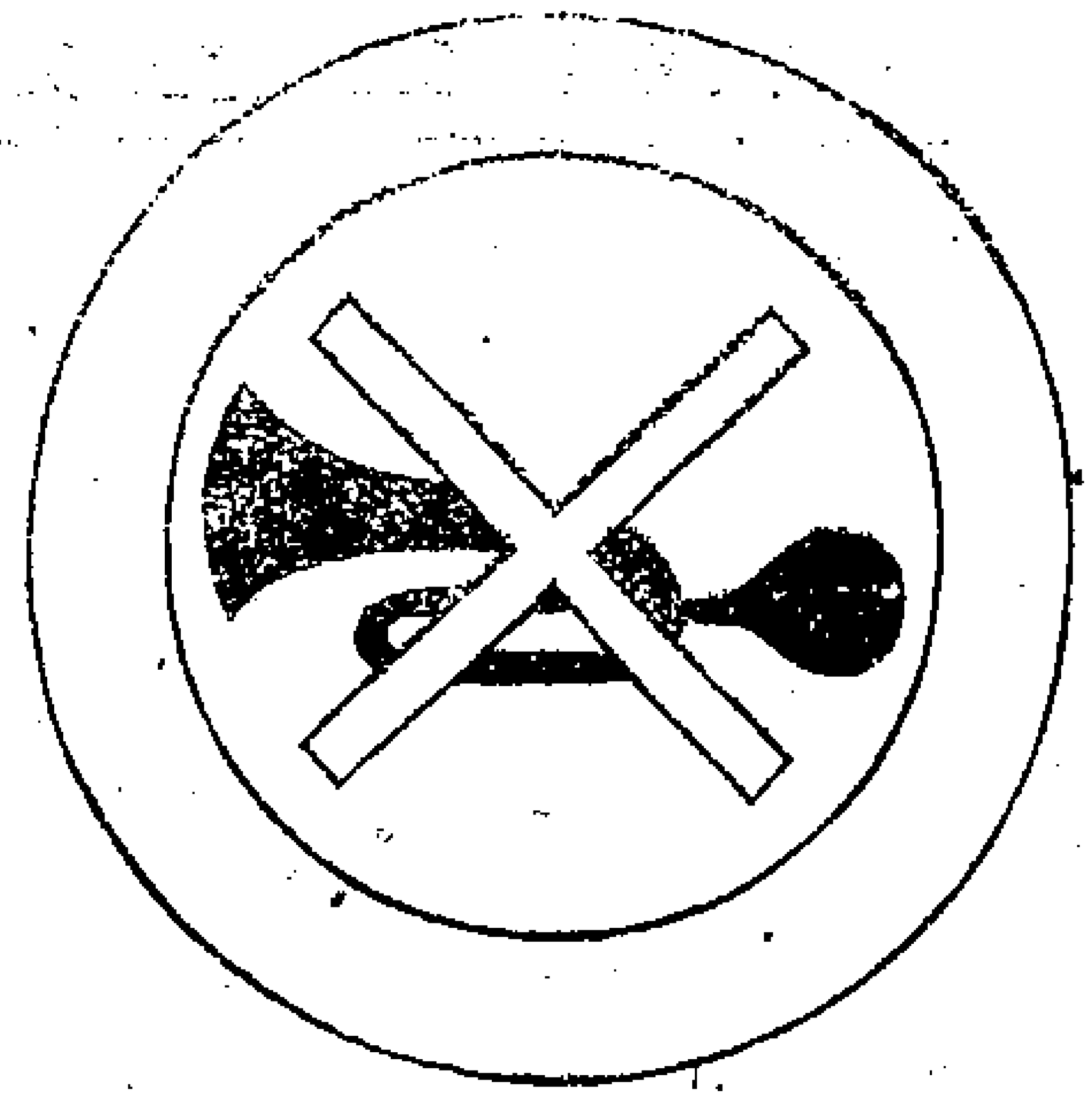
No. 6.

OVERTAKING PROHIBITED.



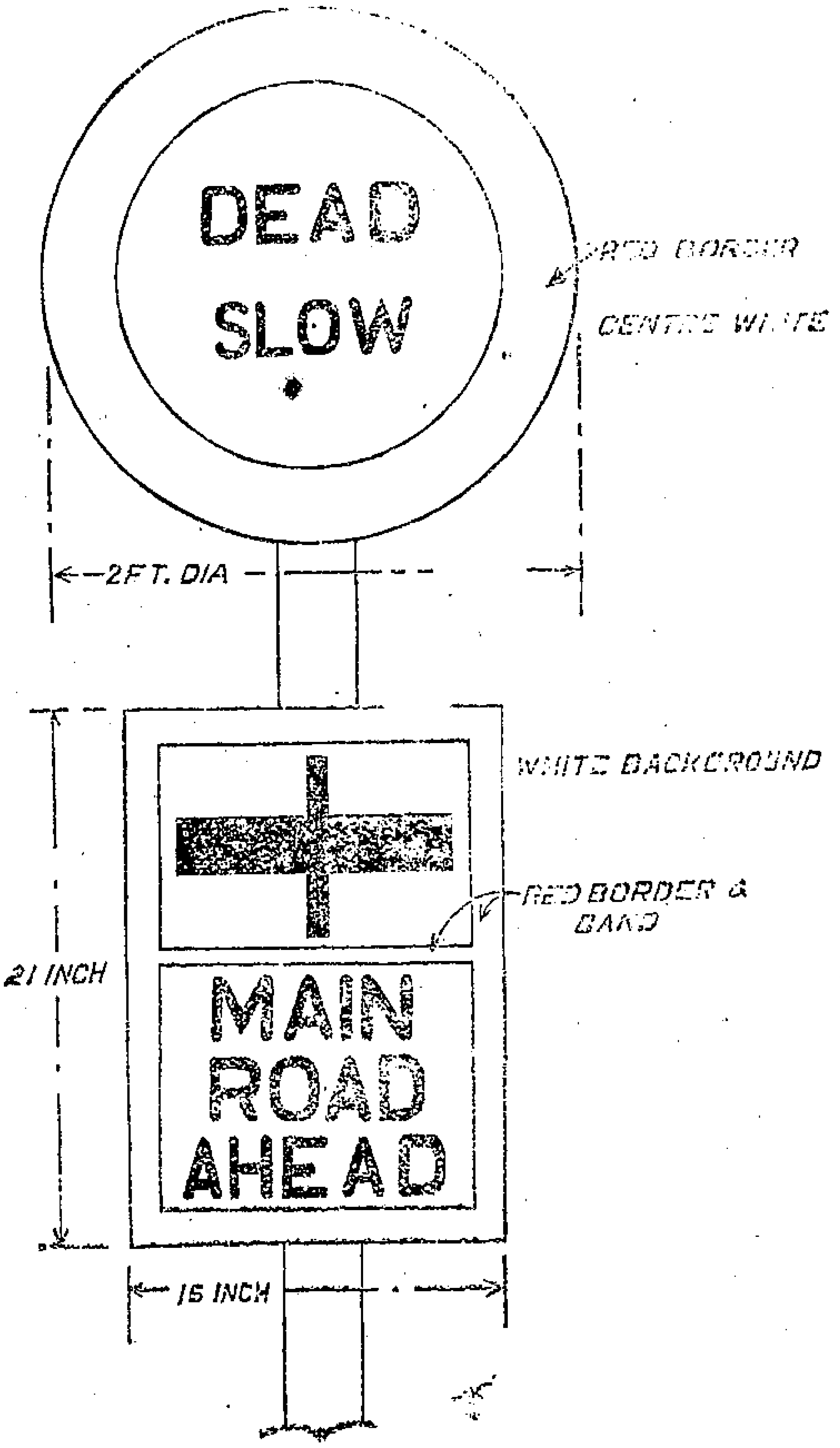
No. 7.

USE OF SOUND SIGNALS PROHIBITED



Cross and border—Red
Background—White
Device

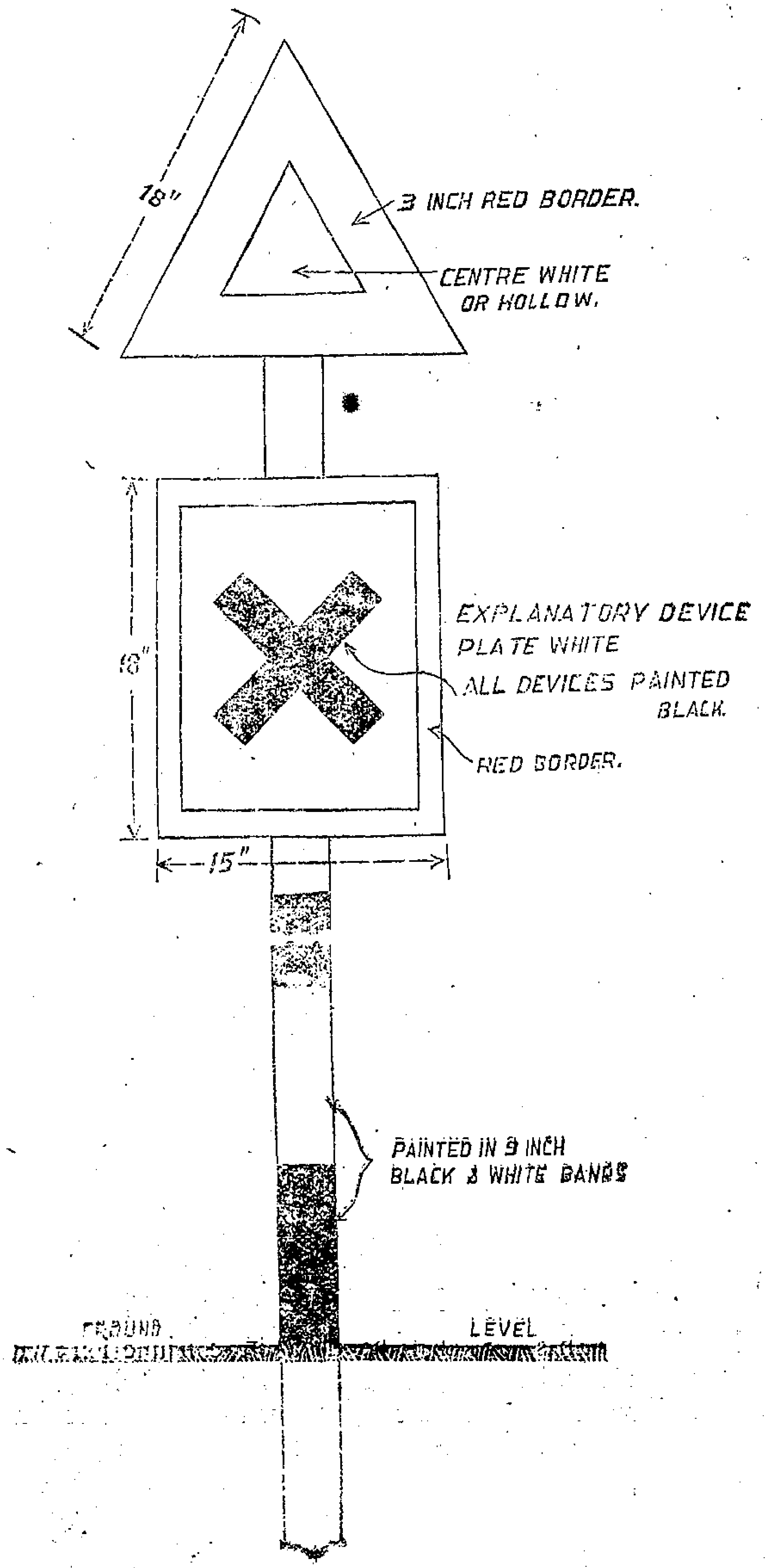
No. 8.
MAIN ROAD AHEAD



PART B.—CAUTIONARY SIGNS.

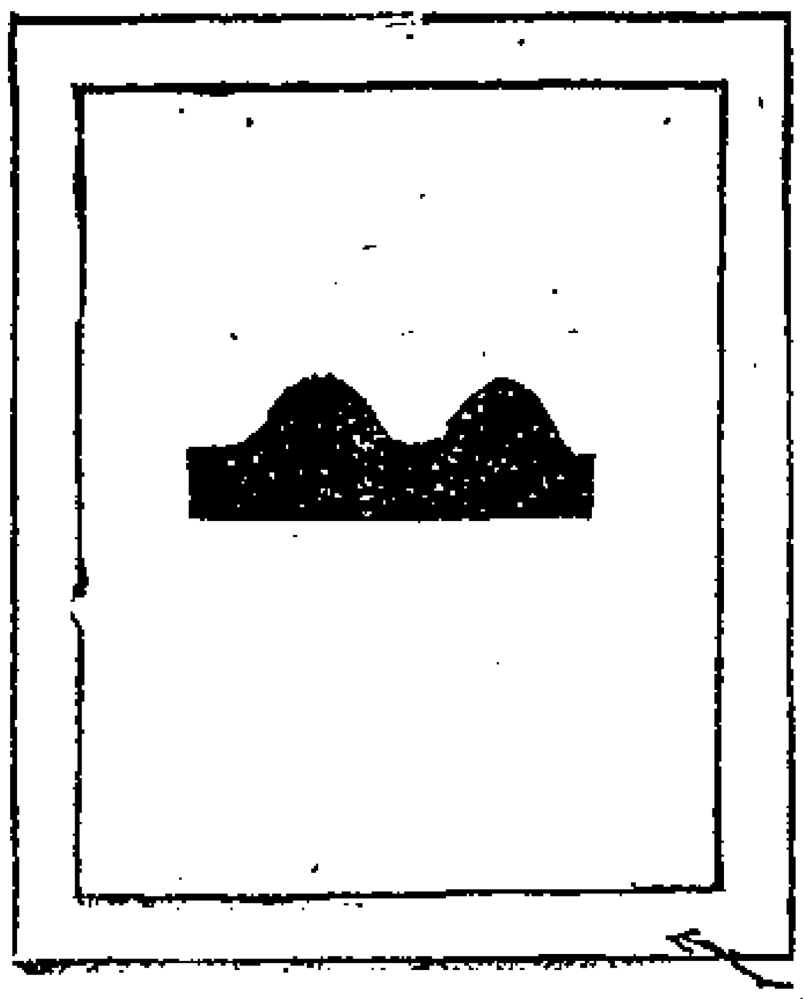
The signs of this Part shall be used in conjunction with a red triangular plate, the centre of which shall be either hollow or painted white, in the manner indicated in the general design reproduced below.

GENERAL DESIGN.



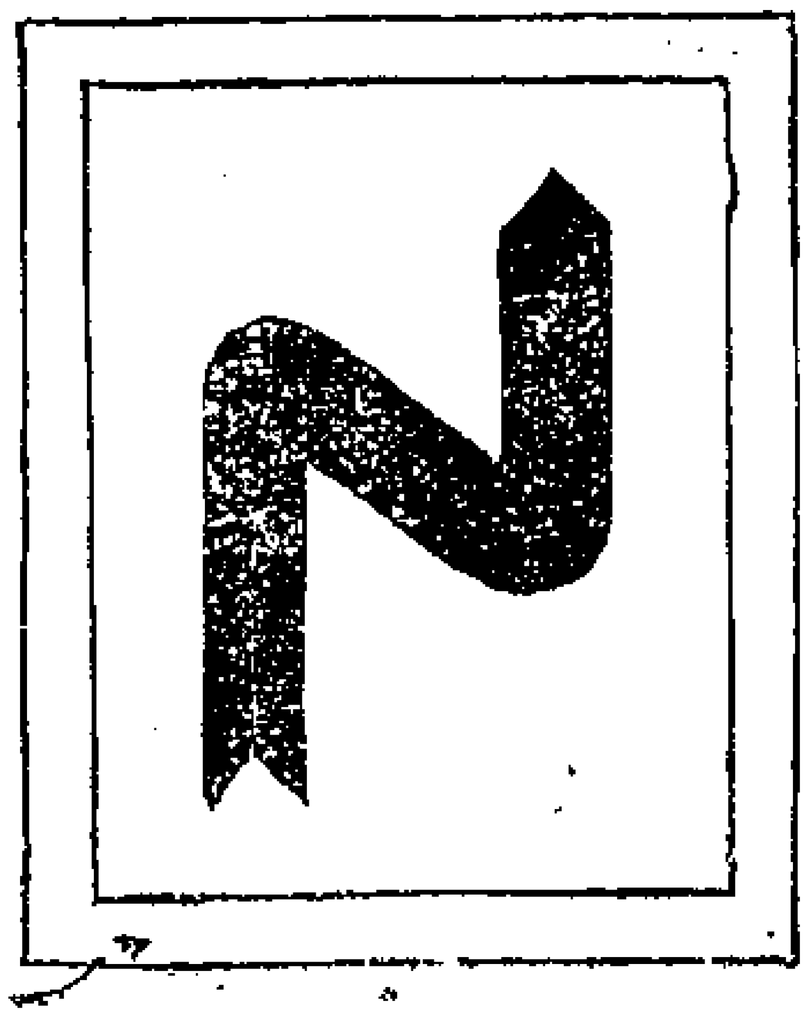
No. 1

ROUGH ROAD



No. 2

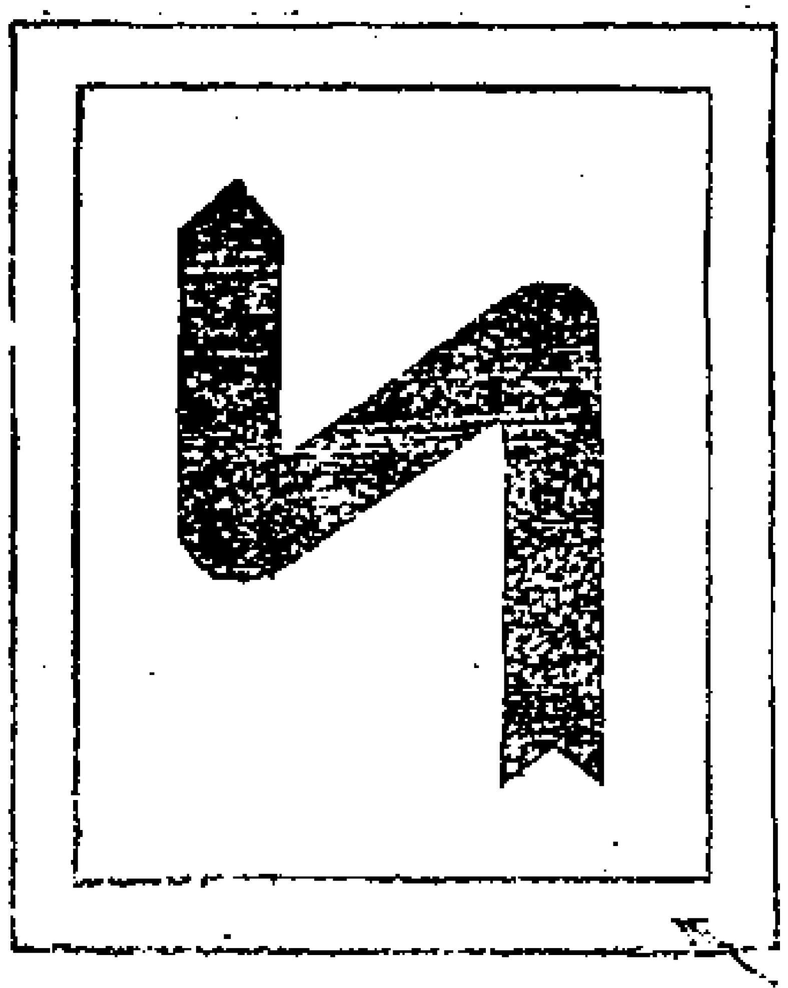
ZIG-ZAG (RIGHT)



RED BORDER

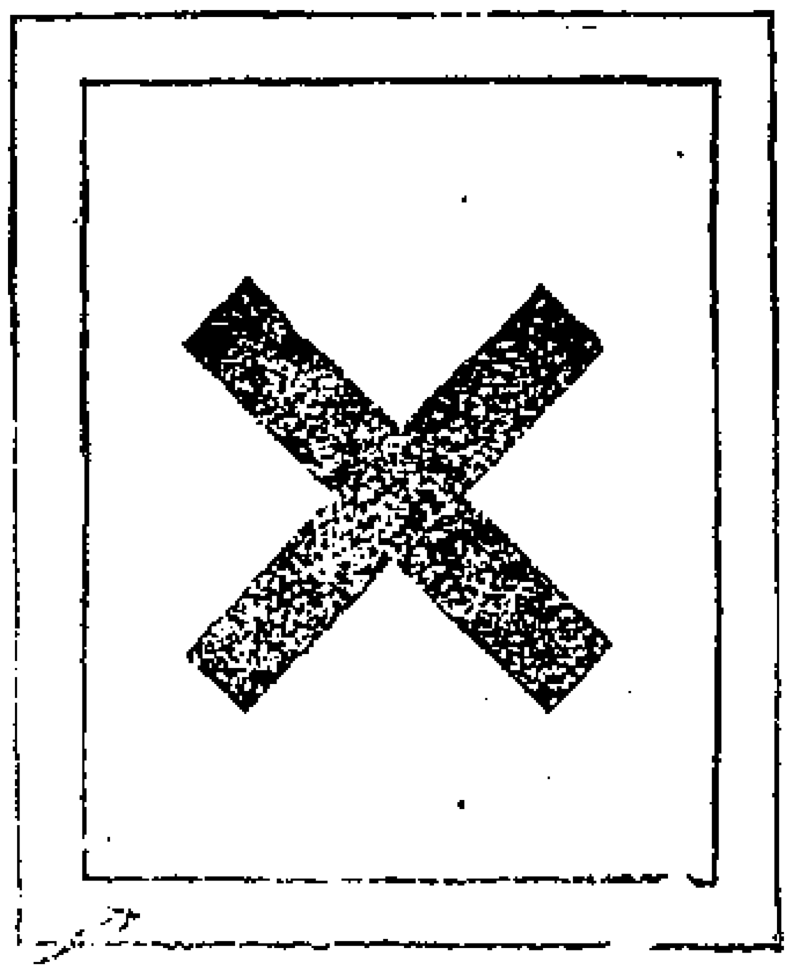
No. 2

ZIG ZAG (LEFT)



No. 3

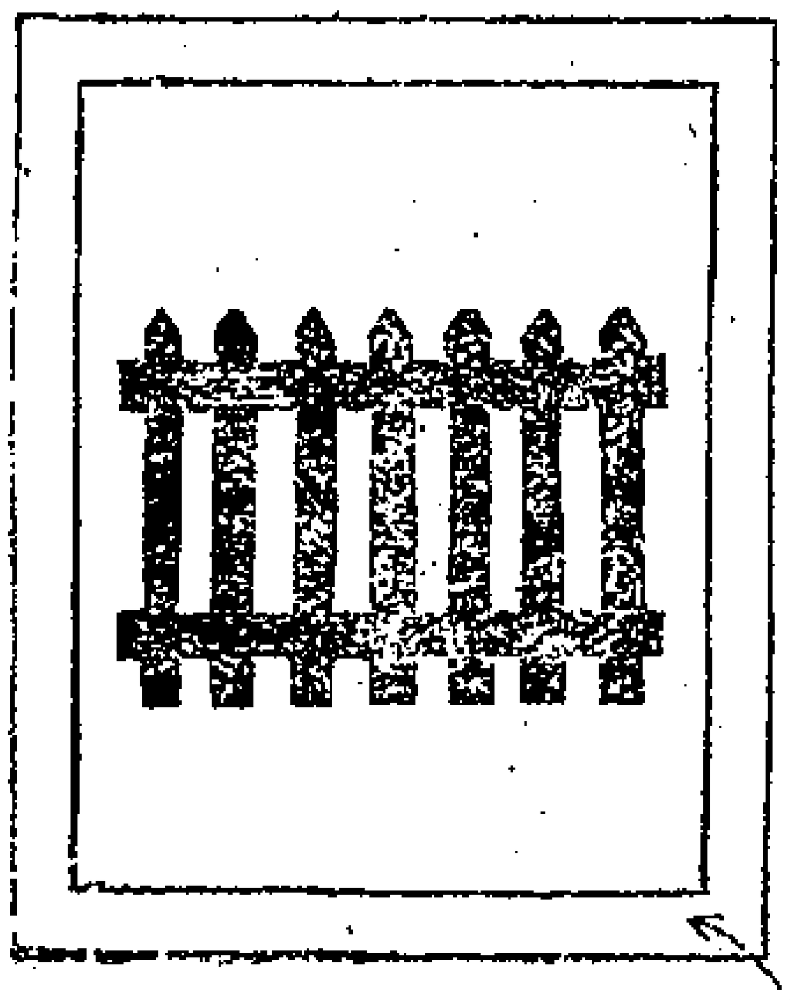
CROSS ROADS



RED BORDER

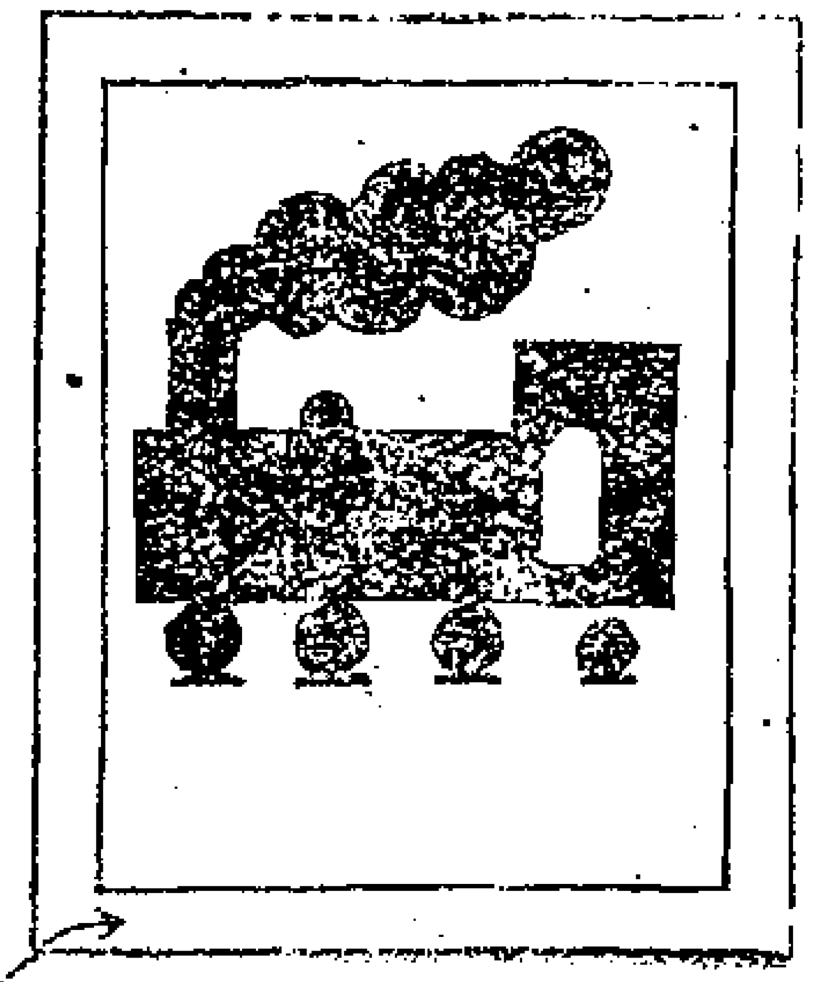
No. 4

LEVEL CROSSING (GUARDED)



No. 5

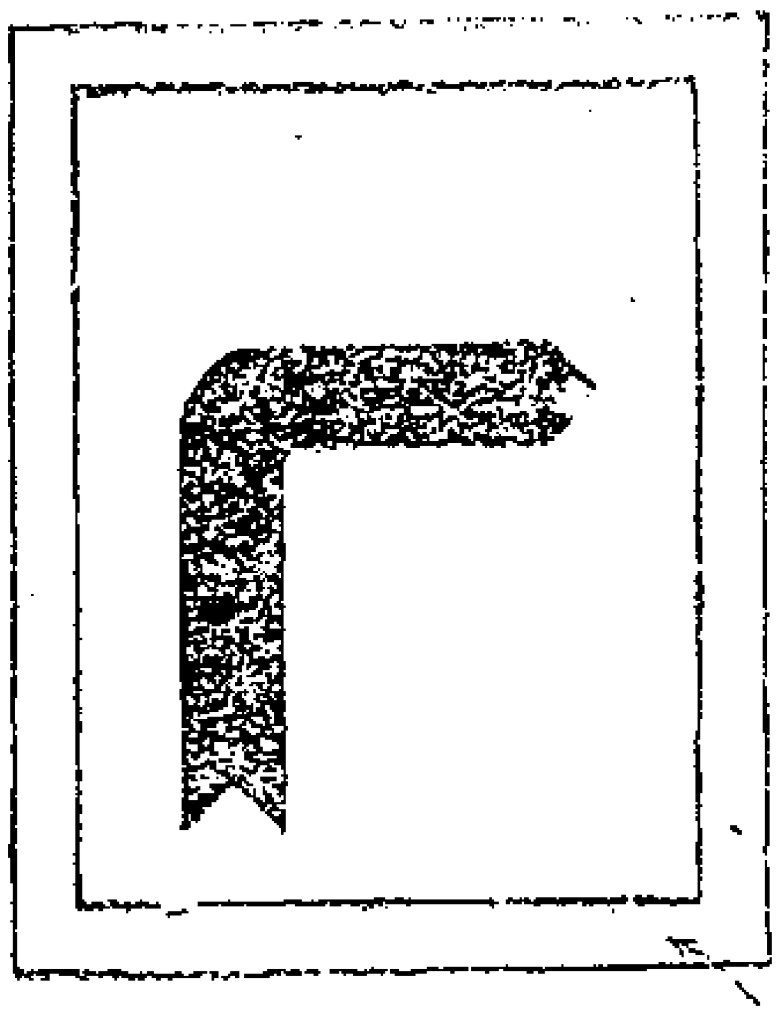
LEVEL CROSSING (UNGUARDED)



RED BORDER

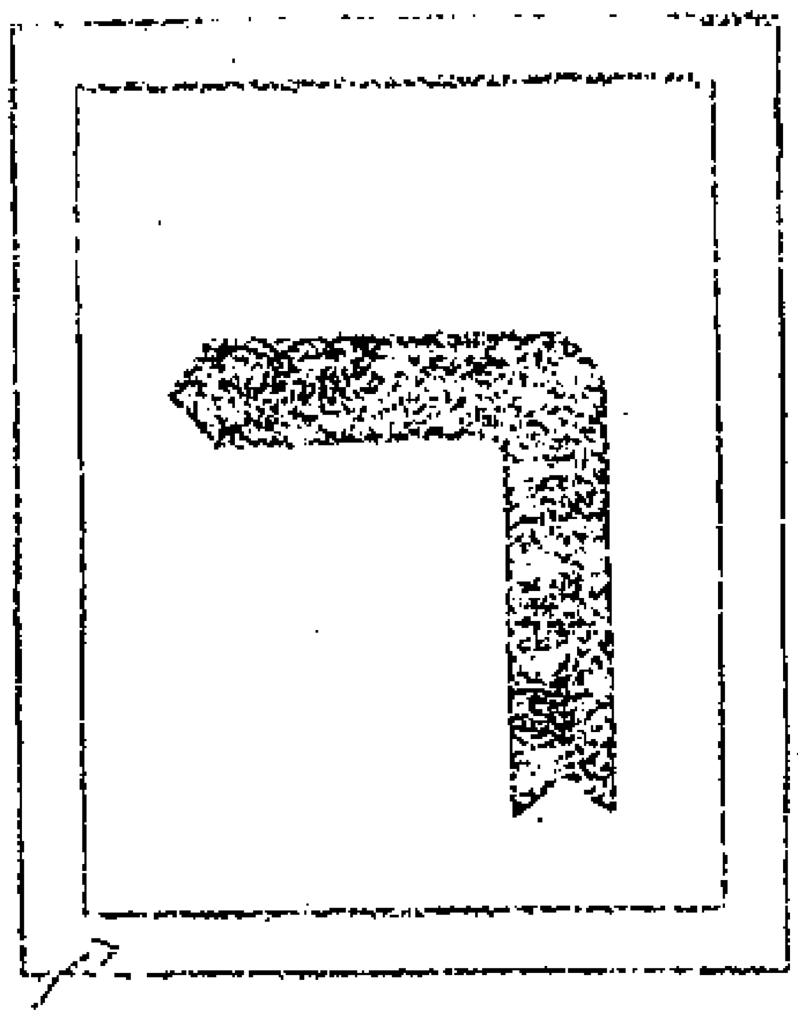
No. 6.

RIGHT TURN.



No. 6.

LEFT TURN.



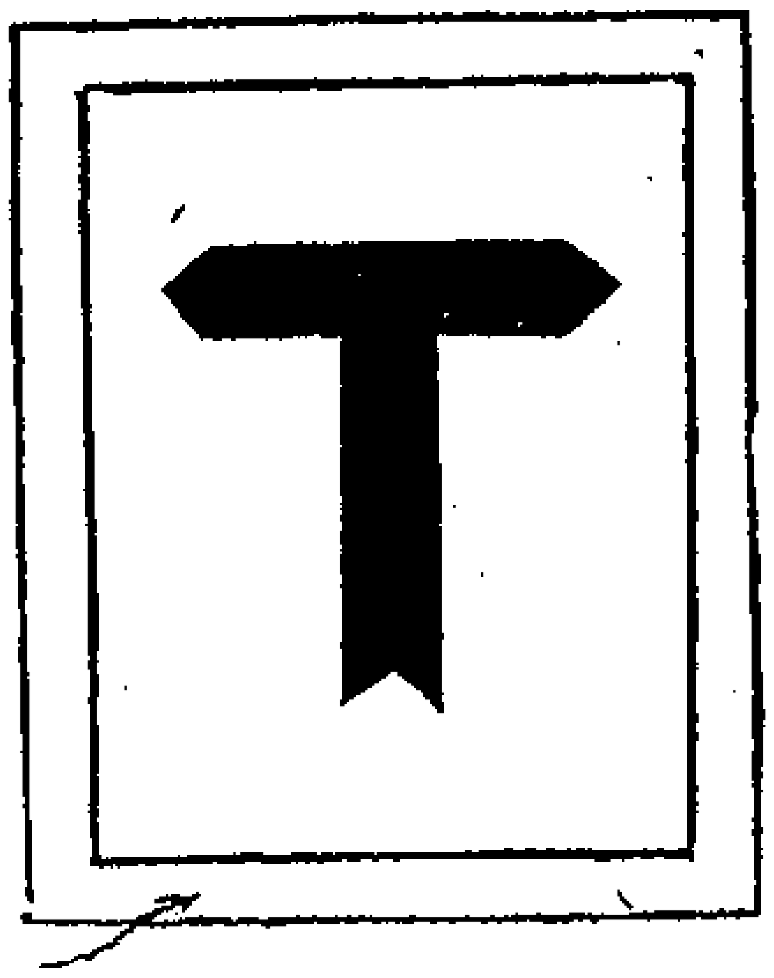
RED BORDER

No. 7.

SCHOOL.

No. 8.

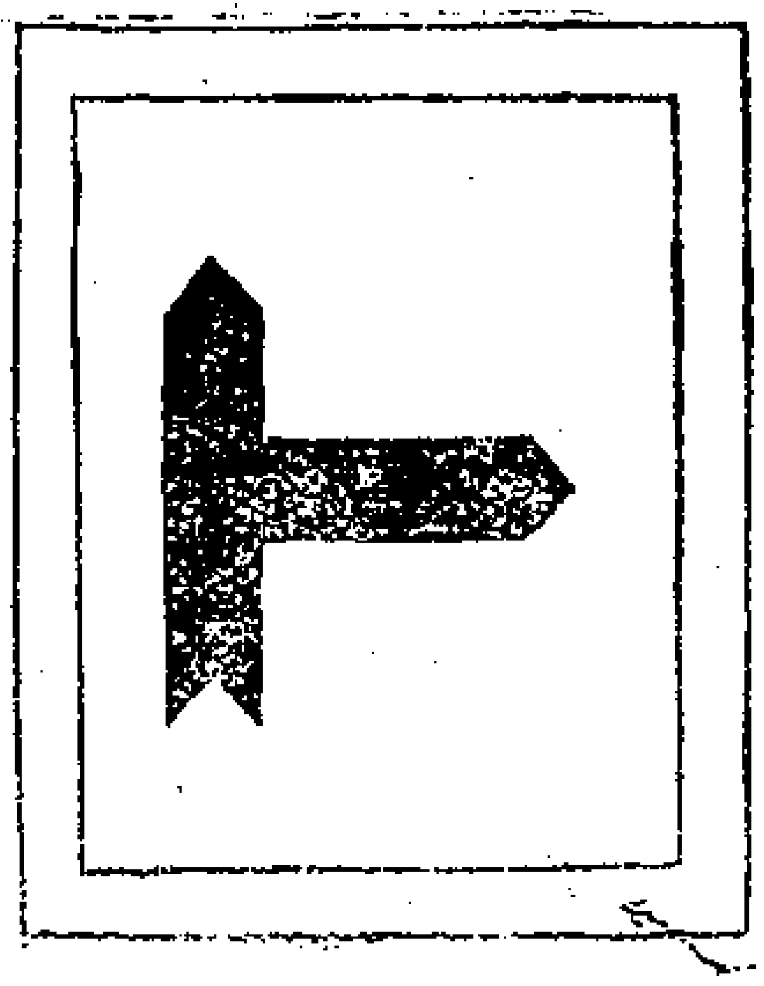
DEAD END CROSS ROAD



RED BORDER

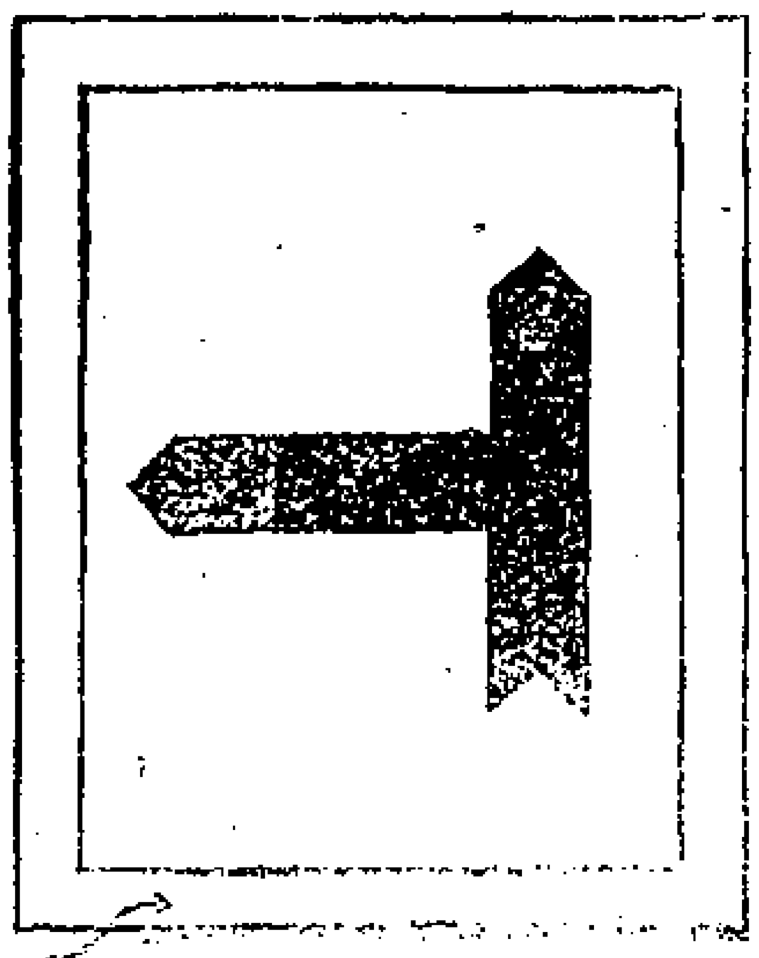
No. 9.

SIDE ROAD (RIGHT.)



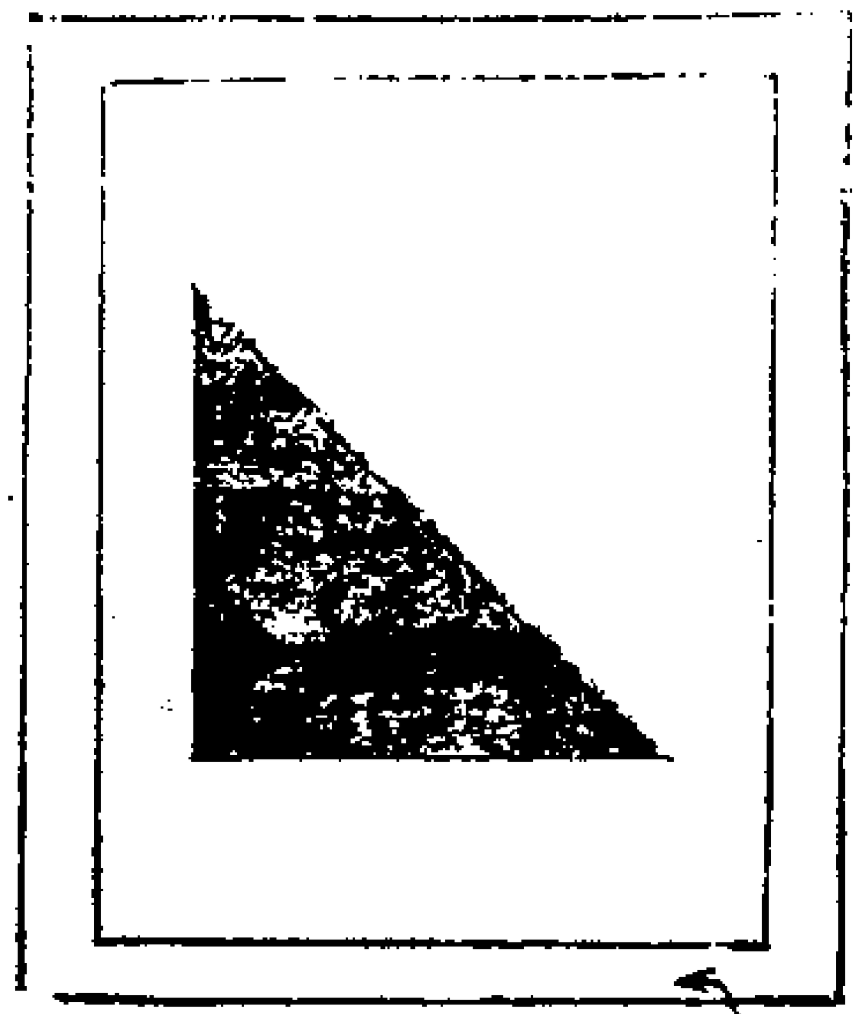
No. 9.

SIDE ROAD (LEFT.)

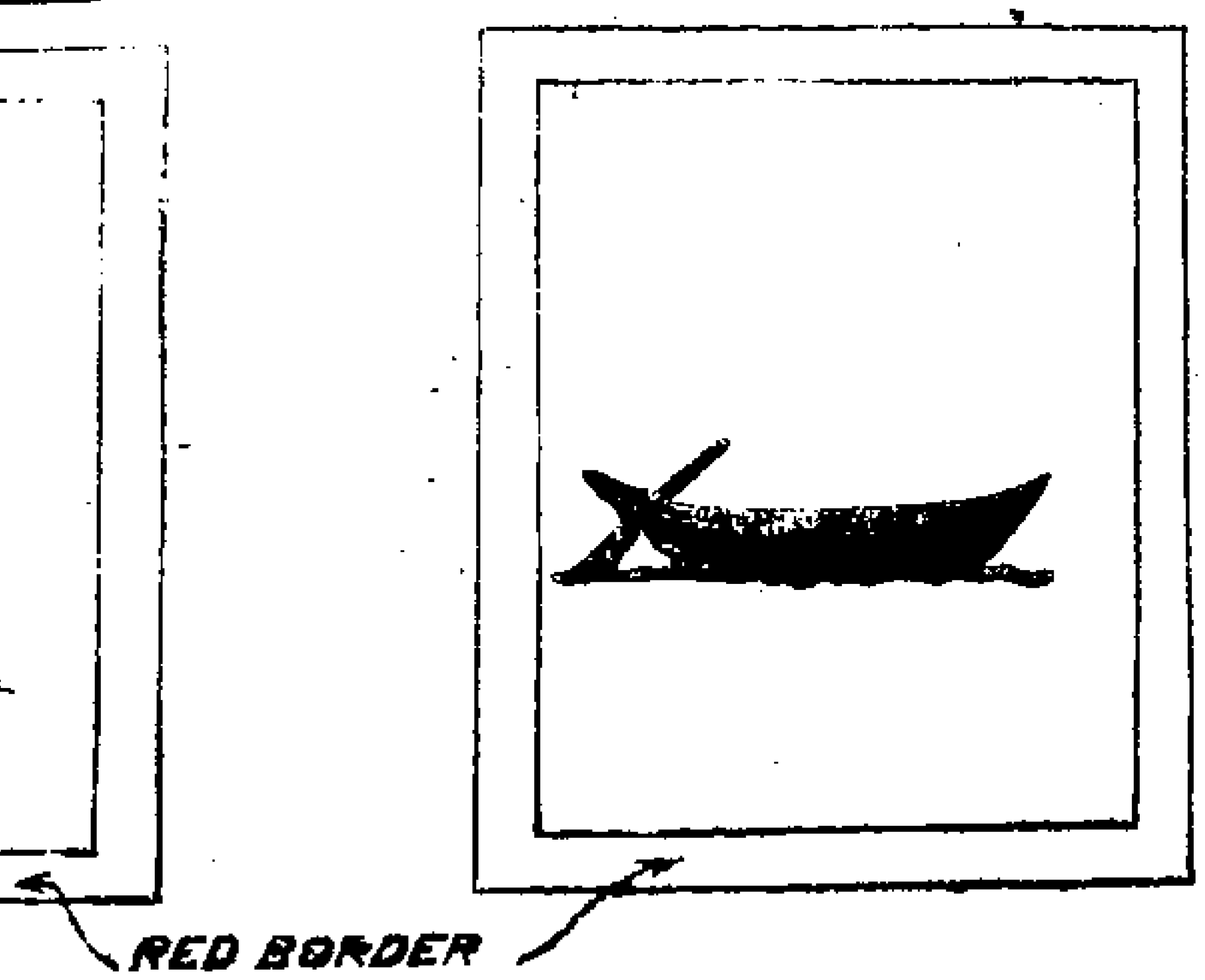


RED BORDER

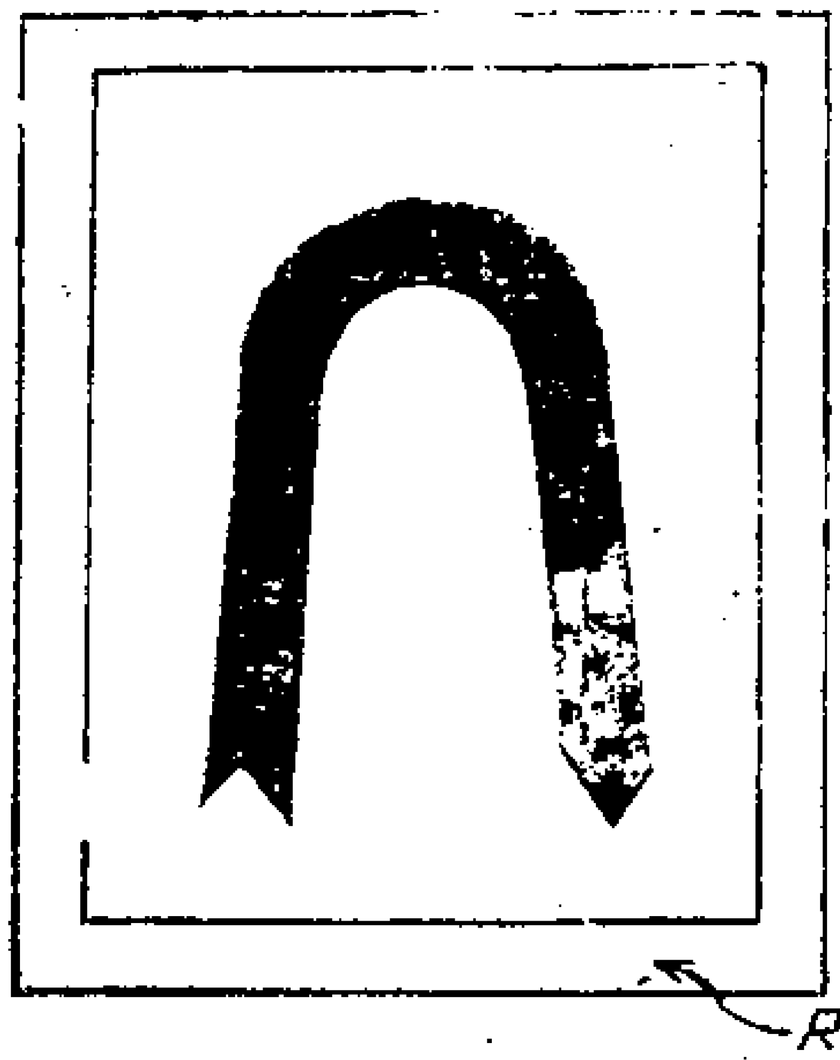
No. 10.
STEEP HILL.



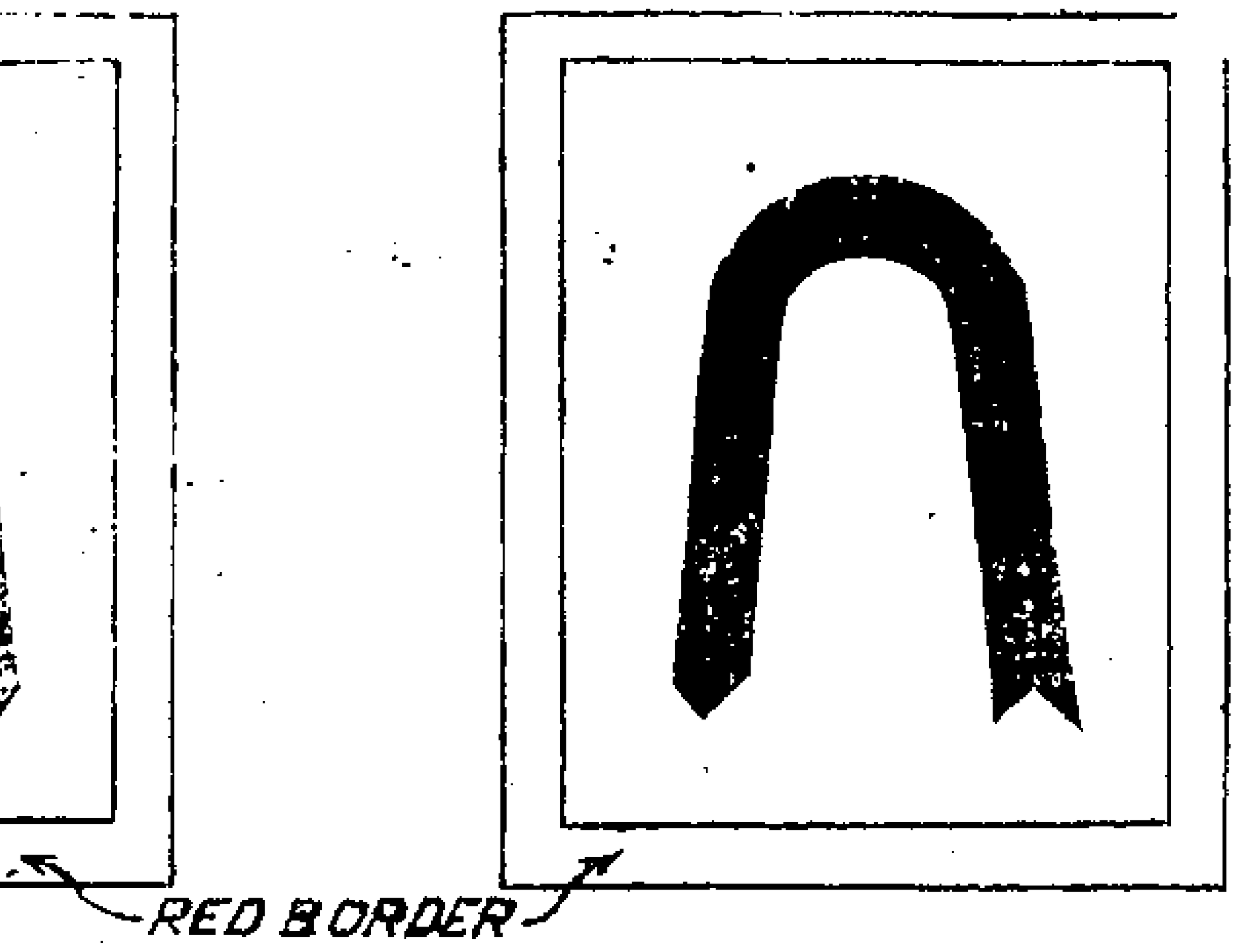
No. 11.
FERRY.



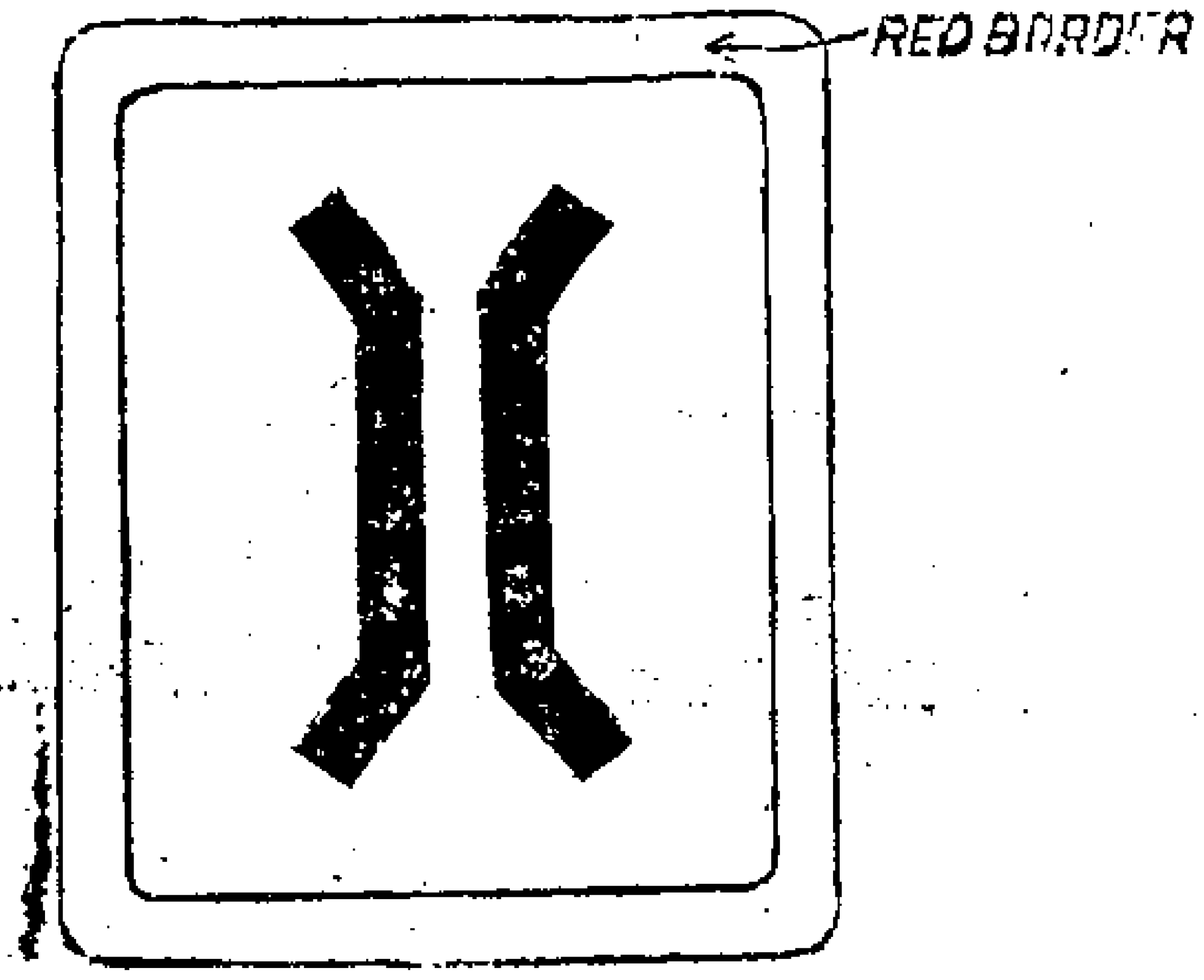
No. 12.
HAIR PIN BEND (RIGHT.)



No. 12.
HAIR PIN BEND (LEFT).



No. 13.
NARROW BRIDGE.



PART C.—INFORMATORY SIGNS.

NO. 1

FLOOD GAUGE-
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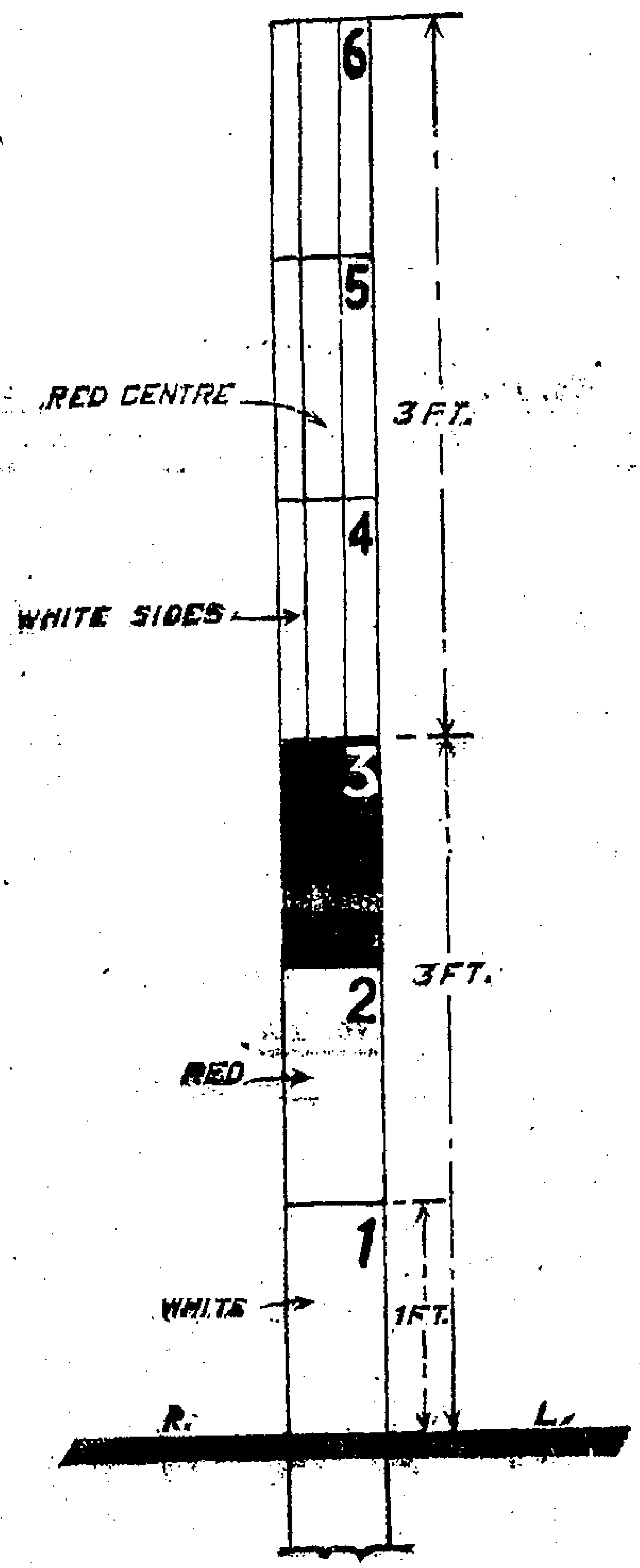
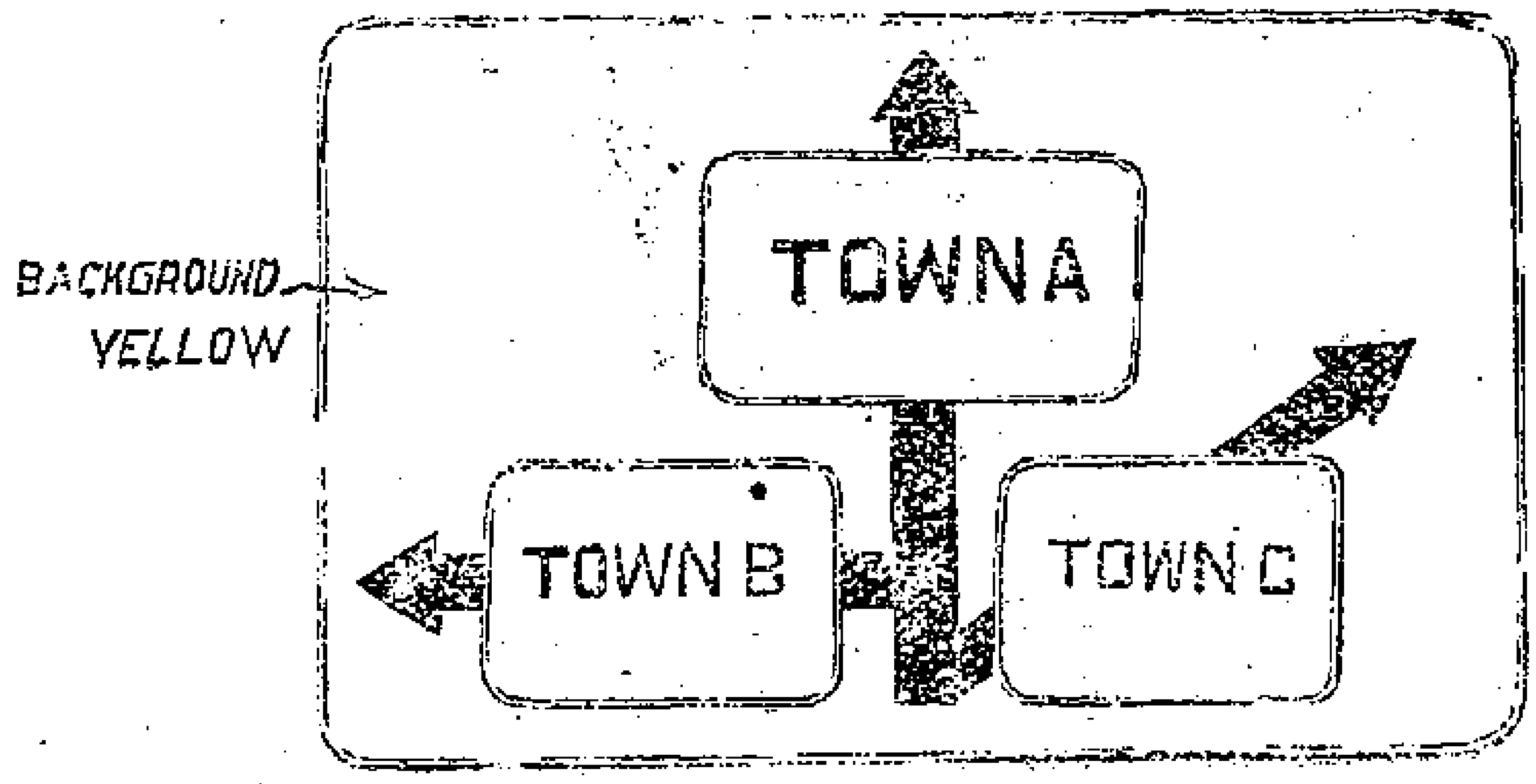


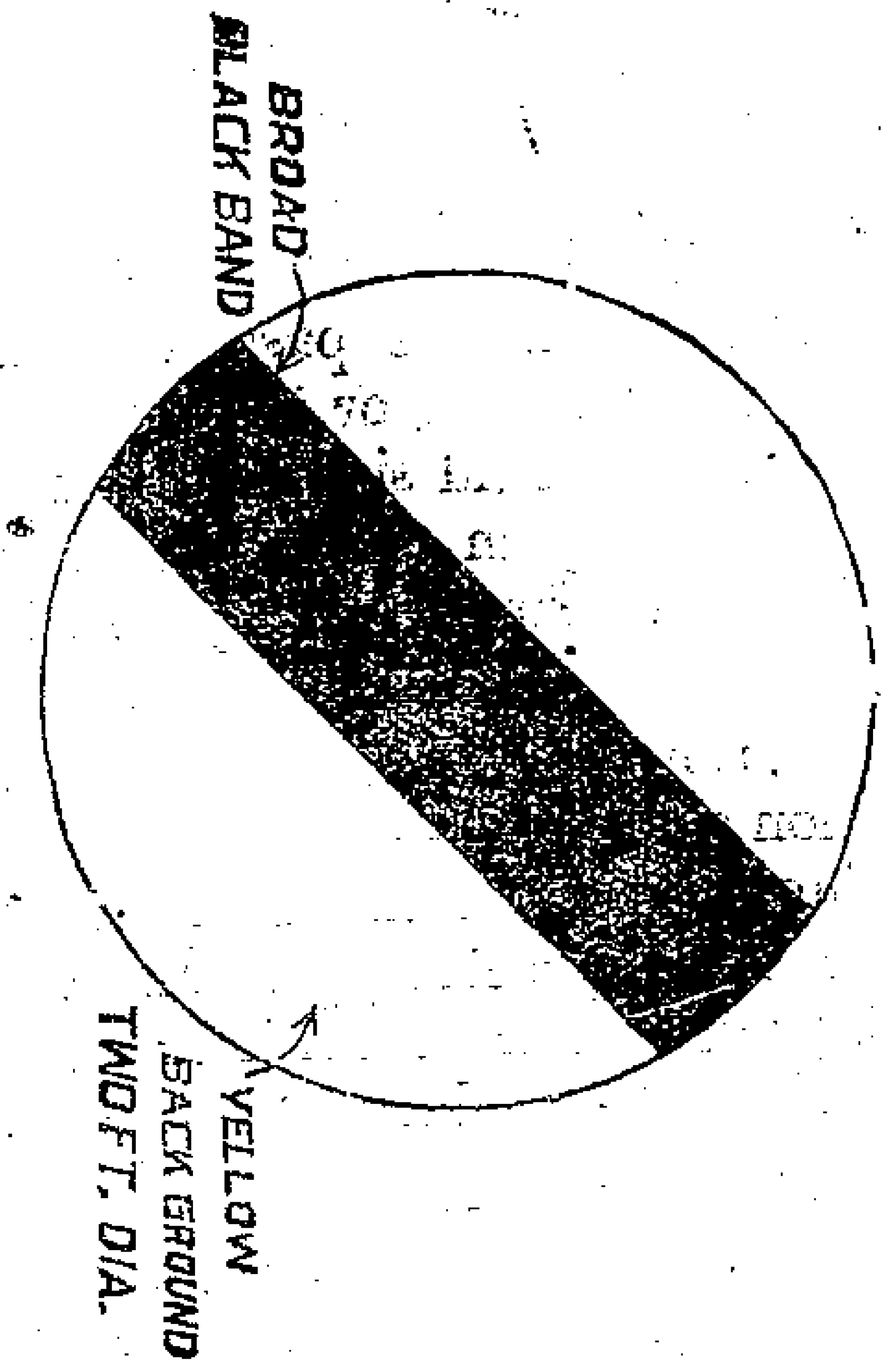
NO. 2

ROAD JUNCTION APPROACH.



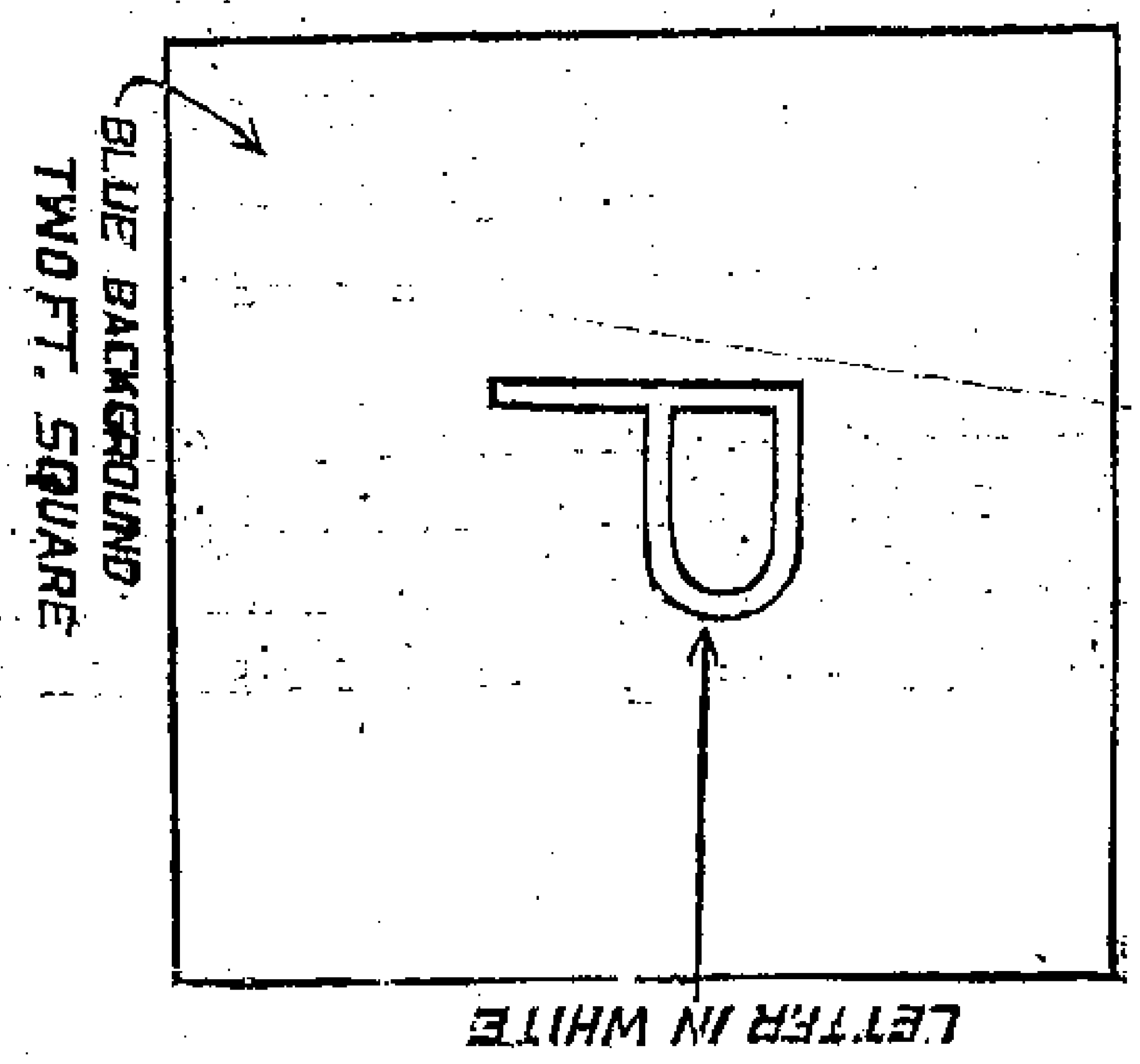
NO. 3

END OF SPEED LIMIT.



NO. 4

PARKING SIGN.



THE EIGHTH SCHEDULE.

(SEE SECTIONS 73 AND 74).

Driving Regulations.

1. The driver of a motor vehicle shall drive the vehicle as close to the left hand side of the road as may be expedient, and shall allow all traffic which is proceeding in the opposite direction to pass him on his right hand side.

2. Except as provided in regulation 3 the driver of a motor vehicle shall pass to the right of all traffic proceeding in the same direction as himself.

3. The driver of a motor vehicle may pass to the left of a vehicle the driver of which having indicated an intention to turn to the right has drawn to the centre of the road and may pass a tram-car or other vehicle running on fixed rails, whether travelling in the same direction as himself or otherwise, on either side :

Provided that in no case shall he pass a tram-car, at a time or in a manner likely to cause danger or inconvenience to other users of the road or pass on the left hand side a tram-car, which when in motion would be travelling in the same direction as himself, while the tram-car is at rest for the purpose of setting down or taking up passengers.

4. The driver of a motor vehicle shall not pass a vehicle travelling in the same direction as himself—

(*a*) if his passing is likely to cause inconvenience or danger to other traffic proceeding in any direction, or

(*b*) where a point or corner or a hill or an obstruction of any kind renders the road ahead not clearly visible.

5. The driver of a motor vehicle shall not, when being overtaken or being passed by another vehicle, increase speed or do anything in any way to prevent the other vehicle from passing him.

6. The driver of a motor vehicle shall slow down when approaching a road intersection, a road junction or a road corner, and shall not enter any such intersection or junction until he has become aware that he may do so without endangering the safety of persons thereon.

7. The driver of a motor vehicle shall on entering a road intersection, if the road entered is a main road designated as such, give way to the vehicles proceeding along that road and in any other case give way to all traffic approaching the inter-section on his right hand.

8. The driver of a motor vehicle shall, when passing or meeting a procession or a body of troops or police on the march or when passing workmen engaged on road repair, drive at a speed not greater than fifteen miles an hour.

9. The driver of a motor vehicle shall—

(a) when turning to the left, drive as close as may be to the left hand side of the road from which he is making the turn and of the road which he is entering,

(b) when turning to the right, draw as near as may be to the centre of the road along which he is travelling and cause the vehicle to move in such a manner that—

(i) as far as may be practicable it passes beyond, and so as to leave on the driver's right hand, a point formed by the intersection of the centre lines of the intersecting roads ; and

(ii) it arrives as near as may be at the left hand side of the road which the driver is entering

THE NINTH SCHEDULE.

(SEE SECTION 75).

Signals.

1. When about to turn to the right or to drive to the right hand side of the road in order to pass another vehicle or for any other purpose, a driver shall extend his right arm in a horizontal position outside of and to the right of his vehicle with the palm of the hand turned to the front.

2. When about to turn to the left or to drive to the left hand side of the roads a driver shall extend his right arm and rotate it in an anti-clockwise direction.

3 When about to slow down, a driver shall extend his right arm with the palm downward and to the right of the vehicle and shall move the arm so extended up and down several times in such manner that the signal can be seen by the driver of any vehicle which may be behind him.

4. When about to stop, a driver shall raise his right forearm vertically out-side of and to the right of the vehicle, palm to the front.

5. When a driver wishes to indicate to the driver of a vehicle behind him that he desires that driver to overtake him, he shall extend his right arm and hand horizontally outside of and to the right of the vehicle and shall swing the arm backwards and forwards in a semi-circular motion

THE STATEMENT OF OBJECTS AND REASONS.

The law relating to Motor Vehicles in Travancore is embodied in the Travancore Motor Vehicles Act of 1094, (Act VI of 1094). With the rapid expansion of the use of Motor Vehicles for the carriage of goods and passengers whether for private or public use, the provisions of Act VI of 1094 have been found to be too inadequate to deal with all the complicated problems arising under modern conditions. In British India, the Motor Vehicles Act VIII of 1914 upon which was based our Act VI of 1094, has been repealed and replaced by a more comprehensive enactment, namely the Motor Vehicles Act IV of 1939. It has been found necessary to pass an enactment here also, similar to the one recently passed in British India. The Bill has been framed mainly with two objectives in view, the regulative and the co-ordinative. The regulative provisions are contained in Chapter II of the Bill which deals with the person in charge of the vehicle, the necessity of licence, its issue, revocation, suspension and other allied matters relating to the same. Chapter III deals with the registration and its recognition and validity. The co-ordinative provisions are contained in Chapter IV which deals with the necessity of permits for transport vehicles, and empowers the Government and the Transport Authority to control the traffic and to eliminate unhealthy competition. Provision for the construction, equipment and maintenance of motor vehicles if contained in Chapter V. Chapter VI deals with the control of traffic. Chapter VII provides for the compulsory third party insurance of motor vehicles in order to protect the unfortunate victims of motor accidents. Chapters VIII and IX relate to offences, penalties and proceedure, Ample power is vested in Government to frame the necessary rules under the several Chapters. The above are some of the more important features of the Bill. The Bill is drawn up generally on the lines of the British Indian Act IV of 1939.

S. KRISHNA PILLAI,
Legal Remembrancer to Government.

Annexure VII.

R. O. C. No. 286 of 41/Legis.

The following Bill, together with the Statement of Objects and Reasons, is published as ordered by the Dewan, under Rule 31 of the Travancore Legislative Rules.

Huzur Cutcherry, (By order) M. K. NILAKANTA AIYAR,
Trivandrum, 4th March 1941. *Chief Secretary to Government.*

THE TRAVANCORE PUBLIC HEALTH BILL.

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THE TRAVANCORE PUBLIC HEALTH BILL.

A BILL TO MAKE PROVISION FOR ADVANCING THE PUBLIC HEALTH OF TRAVANCORE.

Whereas it is expedient to make provision for advancing the public health of Travancore; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called The Travancore Public Health Act 111.

Short title and extent.

(2) It extends to the whole of Travancore.

2. (1) The provisions of this Act except Chapters III and IV shall come into force in the whole of Travancore atonce.

Commencement.

(2) The provisions of Chapter III shall come into force at once:—
(a) in the City of Trivandrum, and
(b) in every other Municipal area which has been or may hereafter be declared to be a Municipality under the Travancore Municipal Act, V of 1095.

(3) Our Government may from time to time by notification in Government Gazette extend all or any of the provisions of Chapter III to any area or part of it comprised in a Village Panchayat constituted under the Travancore Village Panchayat Act of 1100 or a Village Union constituted under the Travancore Village Unions Act, 1115 and may cancel or modify any such notification.

(4) Our Government may, from time to time by notification in Our Government Gazette apply all or any of the provisions of Chapter IV to any municipal area or part of it or to any other specified area and may cancel or modify any such notification.

3. In this Act, unless there is anything repugnant in the subject or context:—

Definition.

(1) "Building" includes—
(a) a house, out-house, stable, latrine, godown, shed, hut, wall (other than a boundary wall not exceeding eight feet in height) and any other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever.
(b) a structure on wheels or simply resting on the ground without foundations; and
(c) a ship, vessel, boat, tent, van and any other such structure used for human habitation.

(2) "Cattle" includes elephants, camels, mules, asses, horses, cows, bulls, bullocks, buffaloes, sheep, goats and pigs and the young ones of these species.

(3) "Dairy" includes—

(a) any farm, cattle-shed, milk-store, milk-shop, or other place from which milk is sold or supplied for sale, or in which milk is kept for sale or manufactured for sale into butter, ghee, cheese, cream curds butter-milk or dried sterilized or condensed milk; and

(b) in relation to a dairyman who does not occupy any premises for the sale of milk any place in which he keeps the vessels used by him for the storage or sale of milk but does not include—

(i) a shop or place in which milk is sold for consumption on the premises only ; or

(ii) a shop or place from which milk is sold or supplied for sale in hermetically closed and unopened receptacles in the same original condition in which it was first received in such shop or place.

(4) "Dairyman" includes any person who sells milk, whether wholesale or by retail.

(5) "Drain" means a house-drain or a drain of any other description, and includes a sewer, tunnel, culvert, ditch channel or any other device for carrying off sullage sewage, offensive matter, polluted water, rain water, or subsoil water.

(6) "Drug" means any substance used as medicine whether for internal or external use, or any substance used in the composition or preparation of such medicine.

(7) "Dwelling house" means a building constructed, used or adapted to be used, wholly or principally, for human habitation or in connection therewith.

(8) "Executive Authority" means the Commissioner, Chairman, President, or other functionary of the municipal authority concerned, who is vested with general executive powers under the Trivandrum City Municipal Act, 1116 or the Travancore Municipal Act 1095, as the case may be.

(9) "Executive Officer" means the paid officer, if any, of the municipal authority who is vested with general executive powers in the area for which such authority is constituted under the Trivandrum City Municipal Act, or the Travancore Municipal Act, V of 1095 as the case may be.

10. "Factory means any premises including the precincts thereof, wherein any industrial, manufacturing or trade process is carried on with the aid of steam, water, oil, gas, electrical or any other form of power which is mechanically transmitted and is not generated by human or animal agency.

(11) "Filth" means.

(*a*) nightsoil and other contents of latrines, cesspools and drains,

(*b*) dung and the refuse or useless or offensive material thrown out in consequence of any process of manufacture, industry or trade, and

(*c*) putrid and putrefying substances.

(12) "Food" includes every article consumed or used by man, for food, drink, or chewing, and all materials used or admixed in the composition or preparation of such article and shall also include flavouring and colouring matter and condiments.

(13) "Health Officer" means the Health Officer if any employed by the municipal authority concerned and in other cases the officer appointed or authorised by Our Government to exercise the powers and discharge the duties of a Health Officer.

(14) "House-drain" means any drain actually used, or intended to be used, for the drainage of one or more premises.

(15) "Hut" means any building which is constructed principally of wood mud, leaves, grass or thatch and includes any temporary structure of whatever size or any small building of whatever meterial made, which in municipal areas the municipal authority and in other areas our Government may declare to be a hut for the purposes of this Act.

(16) "Infectious disease" means an infectious disease as defined in section 16 and includes notified disease as defined in section 22.

(17) "Latrine includes privy, water closet and urinal, whether public or private, or whether open or flush out.

(18) "Municipal area" means the area within the jurisdiction of a municipal authority.

(19) "Manicipal authority" means

(*a*) in the City of Trivandrum, the Corporation of Trivandrum, and

(*b*) in any other municipal area, the municipal council concerned.

(20) "Lodging house" means a hotel, a boarding house, a choultry, dharmasala or rest house not maintained by the Goverment or a Municipal authority an unlicensed emigration depot, or any place where casual visitors are received and provided with sleeping accommodation, with or without food, on payment, but does not include.

(*a*) a student's hostel under public or recognized control, or

(*b*) retiring rooms provided in railway premises for the use of passengers or railway servants.

(21) "Magistrate" does not include an honorary Magistrate.

(22) "Milk means the milk of a cow, buffalo, goat, ass, or other animal and includes cream, skimmed milk, separated, milk, and condensed, sterilized or desiccated milk, or any other product of milk.

(23) "Notification" means a notification in Our Government Gazette.

(24) "Nuisance" includes any act, omission, place or thing which can or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or disturbance to rest or sleep or which is or may be dangerous to life or injurious to the health or property of the public or the people in general who dwell or occupy property in the vicinity or persons who may have occasion to use any public right.

(25) "Occupier", includes

(*a*) any person for the time being paying or liable to pay to the owner the rent or any portion of the rent of the land or building or part of the same in respect of which the word is used or damages on account of the occupation of such land, building or part, and

(*b*) a rent-free occupant.

(26) "Offensive matter includes

(*a*) filth as defined in clause (II);

(*b*) sewage as defined in clause (32); and

(*c*) dirt, house sweepings, spittings including chewed betel and tobacco, kitchen or stable refuse, broken glass or property, debris and waste paper.

(27) "Offensive trade" means any trade in which the substances dealt with are, or are likely to become, a nuisance.

(28) "Owner" includes the person for the time being receiving or entitled to receive, whether on his own account or as agent, trustee, guardian, manager or receiver for another person or estate or for any religious or charitable purposes, the rent or profits of the property in connection with which the word is used.

(29) "Prescribed" means prescribed by Our Government by rules made under this Act.

(30) "Private street" means any street, road, square, court, alley, lane, passage or riding-path which is not a "public street", but does not include a pathway made by the owner of premises on his own land to secure access to, or the convenient use of such premises.

(31) "Public street" means any street, road, square, court, alley, lane, passage or riding-path, whether a thoroughfare or not, over which the public have a right of way and includes—

(*a*) the roadway over any public bridge or causeway;

(*b*) the footway attached to any such street, public bridge or causeway; and

(*c*) the drains attached to any such street, public bridge or causeway and the land whether covered or not by any pavement, veranda, or other structure which lies on either side of the roadway up to the boundaries of the adjacent property whether that property is private property or property belonging to Our Government.

(32) "Sewage" means nightsoil and other contents of latrines, cesspools or drains and includes trade effluents and discharges from manufacturies of all kinds.

(33) "Street' means a public or a private street.

(34) "Water course" includes any river, stream or channel, whether natural or artificial other than a drain.

(35) "Workplace" means any premises including the precincts thereof, (not being a factory or a workshop) wherein is carried on any industrial, manufacturing or trade process, at which not less than five persons are employed for wages or any other remuneration.

(36) "Workshop" means any premises including the precincts thereof, (not being a factory) wherein any article or part of an article is made, repaired, altered, ornamented, finished or otherwise adapted for use on a commercial basis and not less than five persons are employed for that purpose for wages or any other remuneration.

Appointment of Director of Public Health and Health Officers.

4. For the purpose of giving effect to the provisions of this Act Our Government may from time to time appoint a Director of Public Health and subject to the provisions hereinafter contained appoint Health Officers for all or any of the purposes of this Act.

Powers of Government to authorise the exercise of powers of Health Officer.

5. Our Government may by general or special order, authorise any officer of Our Government or of a Municipal authority to exercise such of the powers of a Health Officer under this Act, in such area and subject to such restrictions, limitations and conditions and to such control and revision as may be specified in such order.

Powers of the Government and of the Director of Public Health.

Powers of the Government and of the Director of Public Health and his staff.

6. (1) Our Government shall have power to inspect, control, and superintend the operations of Municipal authorities under this Act.

(2) Our Government may, from time to time, define the powers to be exercised, and the duties to be performed, by the Director of Public Health or any member of his staff for the purposes of sub-section (1).

(3) Nothing contained in sub-sections (1) and (2) shall be deemed to affect, or derogate from, any powers possessed by Our Government or the Division Peishkars under any law for the time being in force.

Powers of the Director of Public Health to advice Municipal authorities.

7. The Director of Public Health may, from time to time as occasion requires, recommend for adoption, by any Municipal authority, such measures as may be necessary for improving the public health administration in the Municipal area, or for safeguarding the public health therein ;

Provided that if on account of financial or other reasons, any Municipal authority is unable to carry out such measures, or if there is any difference of opinion between the Municipal authority and the Director, the matter shall be referred to Our Government whose decision shall be final.

PUBLIC HEALTH ESTABLISHMENTS OF MUNICIPAL AUTHORITIES.

Public health staff in Municipal areas.

8. (1) The public health establishment of every Municipal authority shall be on such scale as Our Government may from time to time direct.

(2) The authorities who may make appointments to the public health establishments referred to in sub-section (1), the conditions of service of the members of such establishments and the duties of such members shall, notwithstanding anything contained in the Trivandrum City Municipal Act, 1116 or the Travancore Municipal Act, 1095, be governed by regulations not inconsistent with this Act, made by Our Government. Such regulations may lay down the extent to which the Director of Public Health shall have disciplinary control over the members of such public health establishments

Appointment of the Health Officer.

9. (1) A Municipal authority shall, if so required by Our Government include the post of a Health Officer in its establishment schedule.

(2) Not withstanding anything contained in the Travancore Municipal Act, 1095 or the Trivandrum City Municipal Act, 1116, Our Government,

(*a*) shall appoint the Health Officers of all the Municipal authorities in respect whereof a direction is issued under sub-section (1); and

(*b*) may recover from each such Municipal authority, the whole or such proportion of the salary and allowances paid to the Health Officer, and such contribution towards his leave allowances, pension and provident fund as Our Government may, by general or special order, determine.

Appointment of temporary Health Officers in emergencies.

10. (1) In the event of the prevalence or threatened outbreak of any infectious disease in any Municipal area, or of any unusual mortality therein, Our Government may, by order, appoint temporarily for such period as may be specified therein, one or more additional Health Officers, for the treatment of such infectious disease and preventing it from spreading, or for investigating the cause of, and preventing, such mortality, as the case may be.

(2) For the purpose of sub-section (1) Our Government may appoint any qualified medical practitioner either on an honorary basis or

on such salary or allowances or both as Our Government may fix. The salary and allowances shall be payable from the funds of the Municipal authority.

Appointment of persons to carry out the provisions of this Act.

11. (1) Notwithstanding anything contained in this Act or in any other Act or Acts governing the Municipal authority or authorities concerned Our Government may, by general or special order, appoint any person or persons to carry out such provisions of this Act, in such Municipal areas, as may be specified in the order.

(2) The expenses incurred by such person or persons in doing so shall be met from the funds of the Municipal authority or authorities concerned if any either wholly or in part, and, where more than one Municipal authority is concerned, in such proportions as may be determined by Our Government.

Powers of Director of Public Health over Public Health staff of Municipal authorities.

12. (1) Subject to such rules as may be prescribed including rules for consultation with the executive authorities concerned, the Director of Public Health shall have power—

(*a*) to transfer any member of the public health establishment of a Municipal authority to the public health establishment of another Municipal authority; and

(*b*) in times of emergency, to assign one or more members of the public health establishment of one Municipal authority for temporary duty in the area of another Municipal authority.

(2) In the case referred to in clause (b) of sub-section (1), the Municipal authority within whose jurisdiction the member or members of the public health establishment of another Municipal authority are working, shall pay for the period of such temporary duty, the salary and allowances of such member or members and such contribution towards their leave allowances, pension and provident fund as Our Government may, be general or special order, determine.

Health Officer's control over public health staff.

13. (1) The Health Officer in charge of any Municipal area shall exercise supervision and control over all other members of the public health establishment in such area.

(2) (*a*) Save as otherwise provided in this Chapter or in any rules or regulations made under it, all appointments, transfers and punishments of the members of the public health establishment under the supervision and control of the Health Officer shall be made by the Health Officer, subject to the approval of the executive authority.

(*b*) If for any reason the executive authority disagrees with the orders of the Health Officer under clause (a), the executive authority shall refer the matter to Our Government whose decision shall be final.

14. Every Municipal authority shall provide its Health Officer with such clerical assistance, office accommodation, furniture equipment, stationery, and forms as may in the opnion of the Director of Public Health be necessary for the proper conduct of the business of such Health Officer.

Municipal authority to provide adequate facilities to the Health Officer.

15. Notwithstanding anything contained in the Trivandrum City Municipal Act, 1116 or the Travancore Municipal Act, 1095, the Health Officer of a Municipal authority shall perform such of the functions, and discharge such of the duties, of its executive authority in regard to public health matters under any of the provisions applicable to such Municipal authority contained in the Acts aforesaid, subject to such appeal and control as Our Government may, by general or special order, determine.

Authorization of Health Officer to perform the functions of executive authority in public health matters.

CHAPTER II.

PART I.

Infectious diseases in general.

16. For the purpose of this Part 'infectious disease' means;—

Infectious diseases.

(*a*) acute influenzal pneumonia,
(*b*) anthrax,
(*c*) cerebro-spinal fever,
(*d*) chickenpox,
(*e*) cholera,
(*f*) diphtheria,
(*g*) enteric fever,
(*h*) leprosy,
(*i*) measles,
(*j*) plague,
(*k*) rabies,
(*l*) relapsing fever,
(*m*) scarlet fever,
(*n*) small-pox,
(*o*) tuberculosis,
(*p*) typhus, or
(*q*) any other disease which Our Government may from time to time by notification declare to be an infectious disease either generally throughout Travancore or in such part or parts thereof as may be specified in the notification.

17. Every medical practitioner who in the course of his practice becomes cognizant of the existence of any case of enteric fever or tuberculosis in any private or public dwelling other than a public hospital shall, if the case has not been already reported, give information of the same with the least practicable delay—

Medical practitioners to give information of certain infectious diseases

(*a*) in municipal areas, to the executive authority, the Health Officer, or a Sanitary Inspector ; and

(*b*) in other areas, to the Health Officer, a Health or Sanitary Inspector or the Proverthikar.

Explanation.—In this section, "medical practitioner" means any person who practises Allopathic, Homeopathic, Ayurvedic or Unani system of medicine or any other system of medicine practised in Travancore.

Prohibition of the use of water from suspected source.

18. (1) If it appears to the Health Officer that the water in any tank well or other place, if used for drinking or any other domestic purpose, is likely to engender or cause the spread of any infectious disease, he may, by public notice, prohibit the removal or use of the said water, generally or for any specified domestic purpose.

(2) No person shall remove or use any water in respect of which any such notice has been issued in contravention of the terms thereof.

Removal of infected person to hospital.

19. (1) If it appears to the Health Officer that any person is suffering from an infectious disease, and that such person—

(*a*) (i) is without proper lodging or accommodation, or

(ii) is lodged in a place occupied by more than one family, or

(iii) is without medical supervision directed to the prevention of the spread of the disease, or

(iv) is in a place where his presence is a danger to the people in the neighbourhood ; and

(*b*) should be removed to a hospital or other place at which patients suffering from such disease are received for treatment;

the Health Officer may remove such person or cause him to be removed to such hospital or place.

(2) If any woman who, according to custom, does not appear in public, is removed to any such hospital or place—

(i) the removal shall be effected in such a way as to preserve her privacy ; and

(ii) special accommodation in accordance with the custom aforesaid shall be provided for her in such hospital or place.

(3) No person shall leave, or be taken away from, any hospital or other place referred to in sub-section (1) without the permission of the medical officer in charge or of the Health Officer.

(4) Whoever—

(*a*) obstructs the removal of any person to any hospital or other place under sub-section (1), or

(*b*) leaves, or takes away any such person from, any such hospital or place in contravention of sub section (3),

shall be punished with imprisonment which may extend to three months, or with fine, or with both.

20. (1) No person who knows that he is suffering from an infectious disease not specified in Part II of this Chapter shall expose other persons to the risk of infection by his presence or conduct in—

Prohibition of the exposure of other persons to infection.

(*a*) any market, theatre or other place of entertainment or assembly, or

(*b*) any school, college, playground or such other place, or

(*c*) any hostel, hotel, boarding house, choultry, rest-house, or club, or

(*d*) any factory or shop.

Explanation.—A person shall be deemed to know that he is suffering from an infectious disease within the meaning of this sub-section if he has been informed by the Health Officer or any other officer of the Public Health Department of Our Government or of a municipal authority, not below the rank of Health or Sanitary Inspector, or a qualified medical practitioner, that he is so suffering.

(2) No person who has the care of a person whom he knows to be suffering from an infectious disease not specified in Part II of this Chapter shall cause or permit that person to expose others to the risk of infection by his presence or conduct in any place referred to in sub-section (1).

21. No person shall, while suffering from, or in circumstances in which he is likely to spread, any infectious disease—

Infected persons not to engage in certain trades and occupations.

(*a*) make carry or offer for sale, or take any part in the business of making, carrying or offering for sale, any article of food for human consumption ; or

(*b*) engage in any other occupation without a special permit from the Health Officer of the Municipal authority concerned or otherwise than in accordance with the conditions specified therein.

PART II.

NOTIFIED INFECTIOUS DISEASES.

22. In this Part, notified disease means,—

Notified diseases.

(*a*) cerebro-spinal fever,
(*b*) chicken-pox,
(*c*) cholera,
(*d*) diphtheria,

(e) leprosy.
(f) measles.
(g) plague.
(h) rabies.
(i) scarlet fever.
(j) small-pox,
(k) typhus, or

(l) any other disease which Our Government may from time to time by notification declare to be a notified disease for the purpose of this Part either generally throughout Travancore or in such part or parts thereof as may be specified in the notification.

Occupation of houses to prevent the spread of infection.

23. (1) The Health Officer may, in cases of emergency, with the sanction of the Division Peishkar, enter upon, occupy and use, or depute any person to enter upon occupy and use, without having recourse to the provisions of the Land Acquisition Act, 1089, any building or place which, in the opinion of the Health Officer, is required, and is suitable for any purposes connected with the prevention or control of infection from a notified disease:

Provided that, if the building or place is occupied, notice shall be given in writing to the occupant, or be conspicuously affixed on such building or place, not less than thirty six hours before it is entered upon.

(2) The owner or lessee of such building or place shall be entitled to compensation for any damage or expenses incurred and to a reasonable rent for the period during which it had been occupied or used for any of the purposes referred to in sub-section (1). Such compensation and rent shall be fixed by the Division Peishkar.

(3) The compensation fixed under sub-section (2) shall if the building be within a municipal area be paid by the municipal authority concerned.

(4) The Health Officer shall, when any such building or place ceases to be occupied or used for any of the purposes aforesaid, cause it to be thoroughly disinfected and cleansed.

Information regarding notified disease.

24. Every medical practitioner who, in the course of his practice, becomes cognizant of the existence of any notified disease in any private or public dwelling other than a public hospital, and

every manager of any factory or public building, every keeper of a lodging house, every head of a family and every owner or occupier of a house, who knows or has reason to believe that any person in any premises under his management, control or occupation is suffering from, or has died, of a notified disease,

shall if the case has not been already reported, give information of the same with the least practicable delay—

(a) in municipal areas, to the executive authority, the Health Officer or a Sanitary Inspector, and

(b) in other areas, to the Health Officer, a Health or Sanitary Inspector or the Proverthikar.

Explanation:—In this section, 'medical practitioner' means any person who practises Allopathic, Homeopathic, Ayurvedic, or Unani system of medicine or any other system of medicine practised in Travancore.

Power of entry of Municipal officers to take preventive measures.

25. (1) The Health Officer or any person authorised by him in this behalf may—

(a) at all reasonable hours, inspect with or without assistance any place in which any notified disease is reported or suspected to exist, without notice in the case of factories, workshops, workplaces, offices, business places and the like and after giving such notice as may appear to him reasonable in other cases including dwelling houses, and

(b) take such measures as he may consider necessary to prevent the spread of such disease beyond such place.

(2) The powers conferred by sub section (1) on the Health Officer may in municipal areas be exercised also by the executive authority or any person authorised by such authority.

Destruction of hut or shed to prevent spread of infection.

26. (1) If it appears to the Health Officer that the destruction of any hut or shed is necessary to prevent the spread of any notified disease he may after giving to the owner and the occupier of such hut or shed such previous notice of his intention as may in the circumstances of the case appear to him reasonable take measures for having such hut or shed and all the materials thereof destroyed.

(2) Such compensation as the executive authority may consider reasonable if the hut or shed is with in a municipal area and such compensation as the Division Peishkar may consider reasonable if such hut or shed is within any other area shall be paid to any person who sustains loss by the destruction of any hut or shed under the powers conferred by sub-section (1) in the former case by the municipal authority concerned and in the other cases by Our Government; but save as provided in this sub-section, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers aforesaid.

Closure of lodging houses.

27. If, on the application of the Health Officer, a Magistrate, (not being a Magistrate of the third class) is satisfied that it is necessary in the interest of public health that a lodging house or any place where articles of food are sold, or prepared, stored, or exposed for sale, or distributed should be closed on account of the existence or recent occurrence in such lodging house or place of a case of notified disease, the Magistrate may, by order, direct it to be closed until the expiry of such period as may be specified in the order or until it is certified by the Health Officer to be free from infection.

28 No person shall—

Infected cloth not to be sent to laundry.

(1) send or take to any laundry or public wash-house or any public watercourse, tank or well, for the purpose of being washed, or to any place for the purpose of being cleaned, any clothing bedding or other article which he knows to have been exposed to infection from any notified disease, unless such article has been disinfected by, or to the satisfaction of the Health Officer, or a qualified medical practitioner, or unless under instructions from such a person, it is sent with proper precautions to a laundry for the purpose of disinfection with notice that it has been exposed to infection ; or

(2) Place or cause or permit to be placed in any dust-bin or other receptacle for the deposit of refuse any matter which he knows to have been exposed to infection from a notified disease and which has not been disinfected.

29. (1) No person who knows that he is suffering from a notified disease shall

Infected persons not to use public conveyance.

(*a*) enter any public conveyance used for the conveyance of passengers at separate fares, or

(*b*) enter any other public conveyance,

without previously notifying the owner, driver or conductor thereof that he is so suffering.

(2) No person having the care of a person whom he knows to be suffering from a notified disease shall permit that person to be carried—

(*a*) in any public conveyance used for the conveyance of passengers at separate fares, or

(*b*) in any other public conveyance,

without previously notifying the owner, driver or conductor thereof that the person is so suffering.

(3) The owner, driver, or conductor of a public conveyance used for the conveyance of passengers at separate fares shall not convey therein a person whom he knows to be suffering from a notified disease, at any time when a passenger not suffering from such disease is being conveyed therein:

Provided that a person suffering from a notified disease may be conveyed in the public conveyance aforesaid, in such cases of emergency and subject to such restrictions and safeguards as may be notified by Our Government.

(4) The owner or driver of any other public conveyance may refuse to convey therein any person suffering from a notified disease until he has been paid a sum sufficient to cover any loss and expense which will be incurred by reason of the provisions of the next succeeding sub-section.

(5) If a person suffering from a notified disease is conveyed in a public conveyance, the person in charge thereof shall as soon as practicable give notice to the Health Officer or other notified officer of the area in which the conveyance is usually kept and before permitting any other person to enter the conveyance shall cause it to be disinfected.

Letting or sub-letting a building occupied by an infected person.

30. No person shall, without a special permit from the Health Officer, let or sub-let or permit or suffer any prospective tenant to enter, a building in which he knows or has reason to know that a person has been suffering from a notified disease, within the three months immediately preceding.

Prohibition of the exposure of other persons to infection.

31. (1) No person who knows that he is suffering from a notified disease shall expose other persons to the risk of infection by his presence or conduct in—

(*a*) any street or public place, or
(*b*) any market, theatre or other place of entertainment or assembly, or
(*c*) any school, college, playground or such other place, or
(*d*) any hotel, hostel, boarding house, choultry, rest-house, or club, or
(*e*) any factory or shop.

Explanation.—A person shall be deemed to know that he is suffering from a notified disease within the meaning of this sub-section if he has been informed by the Health Officer or any other officer of the Public Health Department of Our Government or of a Municipal authority, not below the rank of Health or Sanitary Inspector, or a qualified medical practitioner, that he is so suffering.

(2) No person who has the care of a person whom he knows to be suffering from a notified disease shall cause or permit that person to expose others to the risk of infection by his presence or conduct in any place referred to in sub-section (1).

Forbidding work in infected premises.

32. (1) If a case of notified disease occurs on any premises, the Health Officer may, whether the person suffering from the disease has been removed from the premises or not, make an order forbidding any work to which this section applies, to be given out to any person living or working on those premises or in such part thereof as may be specified in the order, and any order so made may be served on the occupier of the factory from which the work is given out or on any contractor employed by such occupier.

(2) An order under this section may be expressed to be operative for a specified time or until the premises or any part thereof specified in the order have been disinfected to the satisfaction of the Health Officer, or may be expressed to be inoperative so long as any other reasonable precautions specified in the order are taken.

(3) This section applies to the making, cleaning washing, altering, ornamenting finishing or repairing of wearing apparel and any work incidental thereto, and to such other classes of work as may from time to time be notified by the Director of Public Health.

Prohibition of use of public library by infected persons.

33. No person, who knows that he is suffering from a notified disease shall take any book, or cause any book to be taken for his use, or use any book taken, from any public or circulating library.

Disposal of bodies of persons dying while suffering from notified disease.

34. (1) No person having the charge or control of the body of any person who has died while suffering from a notified disease shall permit or suffer persons to come unnecessarily into contact with, or proximity to, the body.

(2) No person shall, without the sanction in writing of an officer of the Public Health Department of Our Government or of the Municipal authority concerned, not be low the rank of Health or Sanitary Inspector, retain in any premises (elsewhere than in a public mortuary) for more than twelve hours the body of any person who has died while suffering from any notified disease.

(3) (*a*) If any such body (not being a body kept in a mortuary) remains un- disposed of for more than twelve hours without the sanction referred to in sub-section (2), or

if the dead body of any person is retained in any building so as to endanger the health of the inmates of such building, or of any adjoining or neighbouring building,

any Magistrate may, on the application of any officer referred to in sub-section (2), order the body to be removed and disposed of within a specified time.

(*b*) A Magistrate may, in the case of the body of a person who has died while suffering from a notified disease, or in any other case in which he considers the immediate disposal of the body necessary, direct the body to be so disposed of, unless the friends or the relatives of the deceased undertake the disposal of the body within a time specified in the order.

(*c*) The expenses of the removal and disposal of any body under clause (a) or clause (b) shall be borne if the dead body is within the Municipal limits by the Municipal authority and in other cases by Our Government; but such expenses may be recovered as if it were a tax due to it by the Municipal authority or Our Government as the case may be from any person who would have been legally liable therefor but for such removal and disposal, unless in the opinion of the Municipal authority or the Division Peishkar he is too poor to do so.

(4) (*a*) If any person dies in a hospital or a place of temporary accommodation for the sick, while suffering from a notified disease, and the Health Officer certifies that in his opinion it is desirable in order to prevent the spread of infection, that the body should not be removed from such hospital or place except for the purpose of being taken direct to a burial or burning ground or a crematorium for being forthwith buried or cremated, no person shall remove the body from the hospital or place except for such a purpose.

(*b*) When the body is removed for the purpose aforesaid, it shall forthwith be taken direct to a burial or burning ground or crematorium, and there buried or cremated with the least practicable delay.

(5) Without the permission of the Health Officer or a Magistrate, no person shall cause or permit to be carried in a public conveyance the dead body of any person who has died while suffering from a notified disease.

Power of Magistrate to prohibit an assembly of fifty or more persons.

35. In the event of the prevalence of a notified disease in any area on the application of the Health Officer, any Magistrate, not being a Magistrate of the third class, having local jurisdiction shall have power to prohibit either generally, or by special order in any individual case, assemblages consisting of any number of persons exceeding fifty, in any place whether public or private, or in any circumstances, or for any purpose, if in his opinion such assemblages in such place, in such circumstances or for such purpose, would be likely to become a means of spreading the disease or of rendering it more virulent.

Power of Government to confer special powers on officers to control notified diseases.

36. (1) In the event of the prevalence or threatended outbreak of a notified disease in any area, Our Government may, by notification—

(*a*) declare that such area is visited or threatened with an outbreak of notified disease; and

(*b*) confer on the Health Officer or any other officer of the Municipal authority concerned, or on any officer of Our Government, all or any of the powers specified in sub-section (2).

(2) The powers which may be conferred under sub-section (1) are—

(*a*) power to order the evacuation of infected houses and houses adjoining them or in their neighbourhood, or generally of all houses in an infected locality;

(*b*) power to make vaccination and preventive inoculations compulsory subject to the provisions of sub-section (3);

(*c*) power to direct—

(i) that persons arriving from places outside the municipal area, or residing in any building adjacent to, or in

the neighbourhood of, an infected building, shall be examined by any specified medical officer or by any one of a specified class of medical officers ;

(ii) that the clothing, bedding or other articles belonging to such persons shall be disinfected, if there is reason to suspect that they have been exposed to infection; and

(iii) that any such person shall give his address and present himself daily for medical examination at a specified time and place, for a period not exceeding ten days;

(*d*) power to take such measures as may be necessary—

(i) in respect of, or in relation to, persons exposed to infection from any notified disease, or likely to infect other persons with any such disease, and

(ii) in respect of, or in relation to, articles exposed to infection from any notified disease, or likely to infect persons with any such disease, including, in case (i) the placing of restrictions on the movement of such persons, and in case (ii), the destruction of such articles and the placing of restrictions on their export from, import into, or transport within, the area;

(*e*) power to direct that at any place within or outside the municipal area, any consignment of grain exported from, or imported into, such area by rail, road or otherwise, shall be examined and, if necessary, unloaded and disinfected in any specified manner ; and

(*f*) power to close all or any existing markets and to appoint special places where markets may be held.

(3) (*a*) if any person who, or a child in whose care, is sought to be vaccinated or inoculated in pursuance of the power referred to in clause (*b*) of sub-section (2), declares beofre a Magistrate specially empowered by Our Government in this behalf that as a result of a careful inquiry into the subject, he believes that such vaccination or inoculation will be injurious to his health or the health of the child, as the case may be, the Magistrate may, after giving notice to the Health Officer and hearing any representations made by him or on his behalf, exempt such person or child from vaccination or inoculation, on condition of the person aforesaid under taking to subject himself and the members of his family to isolation of such description and for such period and to such further restrictions, if any, as may be directed by the Magistrate:

Provided that any exemption granted under this clause shall cease to have effect after a conviction under clause (*b*) and no exemption shall be granted to any person who has been so convicted,

(*b*) Any person who commits a breach of any undertaking given by him under clause (*a*) shall be punished with imprisonment which may extend to three months, or with fine, or with both.

(4) Any officer on whom powers are conferred by a notification under sub-section (1) shall, subject to such limitations, restrictions and conditions, if any, as Our Government may in the same or in any subsequent notification impose, exercise every power so conferred on him until it is withdrawn by notification.

(5) No claim for compensation shall lie for any loss or damage caused by any exercise of the powers aforesaid.

Destruction of rats, mice etc.

37. (1) The occupier of every premises, or if the premises are unoccupied, the owner thereof shall take such steps as may be reasonably practicable for the destruction of rats, mice and other animals susceptible to plague infesting such premises.

(2) Where the Health Officer is of opinion that the occupier or owner of any premises has failed to fulfil the obligation laid on him by sub-section (1), he may either—

(*a*) serve a notice on such occupier or owner, requiring him to take such steps and within such time as may be specified in the notice, or

(*b*) enter upon such premises and take such steps as may be necessary for the purpose of destroying the rats, mice and other animals susceptible to plague infesting the same, after giving not less than twenty-four hours previous notice to such occupier or owner.

(3) Any expenses incurred under clause (*b*) of sub-section (2) may be recovered by Our Government or the Municipal authority concerned from the occupier or owner, as the case may be, as if it were a tax due from him to Our Government or the Municipal authority.

POWER TO MAKE RULES.

Rules for the prevention, treatment and control of certain diseases.

38. Our Government shall have power to make such rules as they deem fit for the treatment of persons affected with any epidemic, endemic or infectious disease and for preventing the spread of such diseases and the rules may declare by what authority or authorities such rules shall be enforced and executed.

PART III.

FOOD CONTROL.

Prohibition of sale of unsound food.

39. (1) No person shall:—

(*a*) sell, expose or hawk about for sale, or keep, store or prepare for sale, any animal intended for human consumption which is diseased, or the flesh of any animal which has died on account of natural causes; or

(*b*) sell, expose or hawk about for sale, or keep, store, manufacture or prepare for sale, any food or drug intended for human consumption which is unfit for such purpose or is unwholesome.

(2) In any prosecution under sub-section (1), the Court shall, unless and until the contrary is proved, presume—

(*a*) that any animal found in the possession of a person who is in the habit of keeping animals of that class for sale for human consumption, has been kept by such person for sale, and

(*b*) that any food or drug found in the possession of a person who is in the habit of keeping, storing, manufacturing or preparing such food or drug for sale for human consumption, has been kept, stored, manufactured or prepared by such person for sale.

40. (1) Any person who does any of the acts mentioned in sub-section (1) of Section 39 or in clauses (*a*) to (*d*) of sub-section (1) of Section 4 of the Travancore Food Adulteration Act, 1106, in any area to which the Act has been extended, through others employed by him, whether the latter be adults or children, shall be liable to punishment for such act as if he had himself done the same.

Punishment for contravening provisions of Section 39, through others.

(2) If a child under seven years of age does any of the acts aforesaid, the employer of the child, or the parent or other person having the care and custody of the child, as the case may be, shall be liable to punishment for such act as if he had himself done the same.

41. No person shall knowingly consume the flesh of any animal which died on account of natural causes.

Flesh of dead animal not to be consumed.

Explanation.—It shall be no defence to a prosecution under the section that the flesh was consumed as a matter of custom, or as a matter of right on account of services rendered in removing dead cattle, or on any other ground.

CHAPTER III.

Part I.

Sanitary conveniences.

42. Every municipal authority shall provide and maintain in proper and convenient places within the municipal area a sufficient number of sanitary conveniences for the use of the public and cause all such places to be kept in proper order so as not to be a nuisance or injuries to health.

Obligation of municipal authority to provide public sanitary convenience.

43. If in any municipal area any building intended for human habitation is constructed or is reconstructed after being pulled down to or below the ground floor, the owner thereof shall, shall provide such sanitary convniences and in such positions as the Health Officer may, by notice, require.

New houses to be provided with sanitary conveniences.

44. (1) If any building within a municipal area intended for human habitation is without any sanitary convenience or if, in the opinion of the Health Officer, the sanitary convenience or conveniences provided therein are insufficient, having regard to the number of persons occupying the building, or are inefficient, or are objectionable on sanitary grounds, he may, by notice in writing, require the owner of such building—

Additional sanitary conveniences.

(*a*) to provide such sanitary conveniences or such additional sanitary conveniences, and in such positions, as may be specified in the notice: or

(*b*) to make such structural or other alterations as may be specified in the notice.

(2) Every owner of the ground on which a group of six or more huts stands shall provide such latrine accommodation, in such positions, and within such time as the Health Officer may, by notice, require, for the use of the inhabitants of such group of huts.

45. (1) All latrines within a municipal area shall—

Mode of construction of latrines.

(*a*) be so constructed as to screen persons using the same and the filth from the view of persons passing by or residing in the neighbourhood; and

(*b*) be maintained, repaired, altered and used in accordance with the rules and bye-laws made under this Act.

(2) If any latrine opening on any street, whether such latrine be erected before or after the commencement of this Act, is so placed or constructed as to be a nuisance or offensive to public decency, the Health Officer may, by notice, in writing, require the owner to remove it or to carry out such improvements herein and within such time as may be specified in the notice.

(3) When any latrine is used in common by the occupiers of two or more premises or by the members of two or more families, no person shall injure or improperly foul any such latrine or anything used in connection therewith.

PART II.

Abatement of Nuisances.

46. Without prejudice to the generality of the definition of the expression "nuisance" contained in clause (24) of Section 3, the following shall be deemed specifically to be nuisances for the purposes of this Chapter:—

Certain things to nuisances.

(1) any premises in such a state as to be prejudicial to health or a nuisance:

(2) any pond, pool, ditch, gutter, water-course water-trough, latrine, cesspool, drain or ashpit which is so foul or in such a state as to be prejudicial to health or a nuisance;

(3) any animal kept in such a place or manner as to be prejudical to health or a nuisance;

(4) any accumulation or deposit of refuse or other matter which is prejudicial to health or a nuisance;

(5) any factory (not being a factory governed by the provisions of the Travancore Factories Act VIII of 1114) workshop or workplace, which is not provided with sufficient means of ventilation, or in which sufficient ventilation is not maintained, or which is not kept clean or not kept free from noxious effluvia, or which is so overcrowded while work is carried on as to be prejudicial to the health of those employed therein;

(6) any fireplace or furnace, which does not, as far as practicable, consume the smoke arising from the combustible used therein, and which is used for working engines by steam, or in any mill, factory, dye-house brewery bake-house or gaswork or in any manufacturing or trade process whatsoever;

(7) any chimney sending forth smoke in such quantity as to be a nuisance; and

(8) any noise, vibration, dust, cinders, irritating smell or offensive odour produced by a factory, workshop or workplace which is a nuisance to the neighbourhood.

Detention of nuisance.

47. Every Municipal authority shall—

(*a*) cause its municipal area to be inspected from time to time with a view to ascertain what nuisances exist therein calling for abatement under the powers conferred by this Act; and

(*b*) enforce the provisions of this Act in order to abate such nuisances.

Information regarding nuisance.

48. Any person aggrieved by a nuisance in any municipal area may give information of the same to the Health Officer or any other officer of the public health establishment of the Municipal authority.

Power of Health Officer to abate nuisance.

49. If the Health Officer is satisfied, whether upon information given under Section 48 or otherwise of the existence of a nuisance, he may by notice, require the person by whose act, default or sufferance the nuisance arises or continues, or, if that person cannot be found the owner or occupier of the premises on which the nuisance arises or continues, to abate the nuisance and to execute such works and take such steps as may be necessary for that purpose

Provided that—

(*a*) where the nuisance arises from any defect of a structural character, the notice shall be served on the owner of the premises and

(*b*) where the person causing the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act, default or sufference of the owner or the occupier of the premises, the Health Officer may himself forthwith do what he considers necessary to abate the nuisance and to prevent a recurrence thereof.

50. If the person on whom a notice to abate a nuisance has been served under Section 49 makes default in complying with any of its requirements within the time specified therein, or if the nuisance although abated within such time is in the opinion of the Municipal au hority, likely to recur on the same premises, the Municipal authority may arrange for the execution of any works necessary to abate the nuisance or to prevent its recurrence, as the case may be, and may recover the cost from such person as if it were a tax due to the Municipal authority.

Power of Municipal authority to abate nuisance

51. Where a house or other building in a municipal area is in the opinion of its Health Officer, unfit for human habitation by reason of nuisance existing therein, he may apply to a magistrate (not being a Magistrate of the third class) to prohibit the use of such house or building for human habitation until it is rendered fit therefor.

Provision regarding house rendered unfit or occupation by reason of nuisance

52. (1) A Municipal authority may sell any materials which have been removed by it from any premises (including any street), when executing works under this Part arises or otherwise carrying into effect the provisions thereof, if such materials are not claimed and taken away by the owner before the expiration of seven days from the date on which they were removed by the Municipal authority.

Disposal of articles removed while abating nuisance.

(2) A Municipal authority selling any materials under sub-section (1) shall pay the sale-proceeds to the person to whom the material belonged after deducting therefrom the amount of any expense recoverable from him by such authority.

(3) The provisions of this section shall not apply to any offensive matter removed by a municipal authority under the Act governing such authority,

53. The executive authority or any officer of the Public Health Department Our Goverument or of the Municipal authorities, not below the rank of Health or Sanitary Inspector, may enter and inspect any premises for the purpose of enforcing any of the provisions contained in this Part:

Power of entry and inspection.

Provided that—

(a) no such entry shall be made between sunset and sunrise except when a nuisance is caused by anything done or omitted to be done in the premises between sunset and sunrise:

(b) no dwelling house shall be so entered without the consent of the occupier thereof, unless he has received at least twenty-four houres previous notice of the intention to make such entry ;

(c) sufficient notice shall in every case be given to enable the inmates of any apartment appropriated to women to withdraw to some part of the premises where their privacy may be preserved, and

(*d*) due regard shall be paid, so far as may be compatible with the exigencies of the purpose of the entry, to the social and religious usages of the persons residing in the premises.

Power of Government in Case of default by municipal authority.

54. If the Municipal authority or its Health Officer make default in doing its or his duty under this Part in regard to the abatement or prevention of nuisances. Our Government may authorise any of their officers to perform such duty and for that purpcse to exercise any specified powers of the Municipal authority or of its Health Officer or of both, in the Municipal area concerned and the expenses incurred by s ch officers shall be met from the funds of the Municipal authority.

Nuisance caused by act or omission outside municipal area.

55. If a nuisance within or affecting any part of a municipal area appears to be wholly or partly caused by some act or default committed or taking place outside such municipal area the Municipal authority may after consulting the Director of Public Health take or cause to be taken against any person in respect of such act or default any proceedings in relation to nuisance authorised under this part in the like cases and with the like incidents and consequences as if the act or default where committed or took place wholly within such municipal area.

Prohibition of the deposit of rubbish etc. in street, etc.

56. (1) No person shall deposit, or cause or suffer any member of his family or household to deposit any carcasses of animals, any dust, dirt, dung, ashes or refuse or filth of any kind, any animal matter, any broken glass, earthenware or other rubbish, or any other thing which is or may be a nuisance, in any street or in any drain beside a street or on any open space (not being private property) or on any quay, jetty or landing place, or on any part of the seashore, or on the bank of any water-course, within any municipal area except in such receptacles as may be provided or at such places, in such manner and at such hours, as may be fixed by the Health Officer.

(2) No person shall ease himself, or cause, permit or suffer any member of his family or house-hold to ease himself in any such street, drain, open space, quay, jetty, landing place, sea-shore or bank aforesaid.

PART III.

LODGING HOUSES.

Lodging houses to be registered.

57. No person shall within any Municipal area keep a lodging house or receive a lodger therein unless he is registered as the keeper thereof under this Part:

Provided that a person who immediately before the commencement of this Act was keeping a lodging house shall, for a period of three months after such commencement be deemed to have been registered as the keeper thereof.

58. Every executive authority shall keep a register in which shall be entered—

Register of lodging houses.

(a) the full name and the place of residence of every person registered as the keeper of a lodging house;

(b) the situation of every such lodging house,

(c) the number of persons authorised to be received in the lodging house; and

(d) the full names and the places of residence of any persons who are to act as deputies of the keeper of the lodging house.

59. (1) An executive authority on receiving from any person an application for registration, or for the renewal of his registration, as a keeper of a lodging house, and on payment by him of such fee, if any, as may be prescribed for the purpose, shall register the applicant in respect of the lodging house named in the application or renew his registration in respect thereof and issue to him a certificate of registration or of renewal of registration:

Conditions of registration and of renewal of registration.

Provided that the executive authority—

(a) shall not register an applicant until the Health Officer has inspected the premises named in the application and has recommended such registration; and

(b) may refuse to register, or to renew the registration of, an applicant if he is satisfied that—

(i) the applicant or any person employed or proposed to be employed by the applicant at the lodging house as a deputy or otherwise is not a fit person, whether by reason of age or otherwise, to keep or to be employed at a lodging house; or

(ii) the premises are not suilable for use as a lodging house or are not as regards sanitation and water-supply and in other respects including means of escape in case of fire, suitable equipped for use as such; or

(iii) the use of the permises as a lodging house is likely to occasion inconvenience or annoyance to persons residing in the neighbourhood.

(2) The registration, or the renewal of the registration, of a person as a keeper of a lodging house shall expire at the end of the year for which it is granted unless, for special reasons, the executive authority considers that it should expire at an earlier date, when it shall expire at such earlier date which shall be specified in the certificate of registration or of renewal of registration.

(3) If an executive authority refuses to grant or renew registration under this section, he shall deliver to the applicant a statement in writing of the grounds on which his application is refused.

(4) If at any time, a person registered as the keeper of a lodging house applies for the removal from the register of the name of any person

entered therein as a deputy of the keeper, or for the insertion therein of the name of any other person, being a person approved by the executive authority whom the keeper proposes to employ as a deputy, the executive authority shall alter the register accordingly and make any consequential alterations in the certificate of registration.

Appeal to Municipal authority.

60. A person aggrieved by the refusal of an executive authority to grant or renew registration under Section 59 may appeal to the Municipal authority.

Rules for the upkeep and maintenance of lodging houses.

61. Our Government shall have power to make rules—

(*a*) for fixing the number of persons who may be received into a lodging house and for the separate accommodation of the sexes therein;

(*b*) for promoting cleanliness and ventilation in lodging houses and requiring the walls and ceilings thereof to be lime-washed or treated with some other suitable preparation, at specified intervals;

(*c*) with respect to the taking of precautions when any case of infectious disease occurs in a lodging house and

(*d*) generally for the well-ordering of lodging houses.

Notice to be affixed outside the lodging house.

62. (1) The keeper of a lodging couse shall if so required by the executive authority, affix and keep affixed and undefaced and legible, a notice with the words "Registered lodging house" in some conspicuous place on the outside of the house.

(2) The keeper of a lodging house and every other person having the care or taking part in the management thereof shall at all times allow the executive authority, the Health Officer or any other person authorised by the executive authority or Health Officer in this behalf, to have free access to all parts of the house.

Cancellation of registration by Court.

63. When the registered keeper of a lodging house is convicted of any offence under this Part or a rule or bye-law applicable to him made under this Act, the Court by which he is convicted may cancel his registration as a lodging house keeper and may order that he be disqualified for such period as the Court thinks fit for being again registered as such keeper.

PART IV.

SPECIAL PROVISIONS REGARDING FOOD CONTROL.

Importing meat into municipal area.

64. (1) No person shall bring into any Municipal area, without the permission in writing of the Health Officer thereof, the flesh of any animal slaughtered outside the municipal area otherwise than in a slaughter house maintained or licensed by Our Government or by a Municipal authority.

(2) Any flesh brought into the Municipal area in contravention of sub-section (1) may be seized by the Health Officer or any officer or servant of the Municipal authority authorised by him in that behalf,

and sold or otherwise disposed of as the Health Officer may direct: and in case of sale, the sale proceeds shall be credited to the funds of the Municipal authority.

(3) Nothing in this section shall be deemed to apply to—

(*a*) cured or preserved meat, or

(*b*) flesh or meat carried through any Municipal area of consumption outside the limits thereof and not stored anywhere within such limits in the course of transit, or

(*c*) flesh or meat brought into the Municipal area by any person for immediate domestic consumption and not for sale.

Provided that the Municipal authority may, by public notice, direct that the provisions of this section shall apply to cured or preserved meat of any specified description or brought from any specified place.

Power of Health Officer to enter premises used for food trade.

65. Within a municipal area the Health Officer may, without notice enter any place at day time, by day or by night, where any article of food is being manufactured, prepared, exposed or stored for sale, and inspect such article and any utensil or vessel used for manufacturing, preparing or containing the same.

Powers of Health Officer to deal with carriers of disease handling food.

66. (1) Within a municipal area the Health Officer may, at any time, examine any person engaged in selling or in manufacturing or preparing for sale, or in any manner whatsoever handling any article of food intended for sale.

(2) If on such examination the Health Officer finds that such person is suffering from or harbouring the germs of, any infectious disease, such person shall not take part in selling any article of food or in manufacturing, preparing or in any manner handling any article of food intended for sale, until the Health Officer certifies in writing that he is free from inspection from such disease.

Investigation of diseases caused by milk or dairy produce.

67. (1) If the Health Officer has reason to believe.—

(*a*) that any person within the Municipal area over which he has jurisdiction is suffering from an infectious disease attributable to milk or dairy produce supplied within such area, or

(*b*) that the consumption of any milk or dairy produce supplied within such municipal area is likely to cause any person therein to suffer from an infectious disease,

the Health Officer may require the person supplying the milk or dairy produce to furnish within such time as may be fixed by the Health Officer a complete list of all dairies (whether situated within or outside the limits of such area) from which that person's supply of milk or dairy

produce is derived or has been derived during the six weeks immediately, preceding.

(2) If such supply or any part of such supply is obtained, not directly from a dairy but through some other person, the Health Officer may make a similar requisition upon such other person.

(3) Every person on whom any requisition is made under sub-section (1) or sub-section (2) shall be bound to comply therewith.

Inspection of dairy by Health Officer.

68. (1) The Health Officer may inspect any dairy referred to in Section 67 and the milchcattle and the employees therein, and if, on such inspection, the Health Officer is of opinion that any infectious disease is caused, or is likely to be caused, by the consumption of the milk or dairy produce supplied from such dairy, he may make an order prohibiting the supply of any milk or dairy produce for human consumption from such dairy.

(2) An order made under sub-section (1) shall be forthwith cancelled by the Health Officer on his being satisfied that the milk supply has been changed, or that the employees objected to by him have ceased to work at the dairy, or that the cause of infection has been removed.

(3) If an order made under sub-section (1) or cancelled under sub-section (2) relates to a dairy situated outside the limits of the municipal area, the Health Officer shall also inform such authority as may be specified by the Director of Public Health within whose jurisdiction the dairy is situated.

(4) When an order is made under sub-section (1) the Health Officer may either—

(*a*) permit the milk or other produce of the dairy, after being boiled or treated in such other manner as he may direct, to be sold or used as animal food, subject to any reasonable restrictions he may impose, or

(*b*) cause such milk or dairy produce to be destroyed.

(5) No person shall sell or supply any milk or dairy produce in contravention of the provisions of this section.

PART V.

SPECIAL PROVISIONS RELATING TO TREATMENT OF INFECTIOUS DISEASES.

Appointment of additional Health staff.

69. (1) In the event of the prevalence or threatened outbreak of any infectious disease in any Municipal area, or of any unusual mortality therein, the Municipal authority concerned shall provide such additional staff, medicines, appliances equipment and other things as may, in the opinion of the Health Officer, be necessary for the treatment of such infectious disease and preventing it from spreading, or for investigating the cause of such mortality, and preventing it, as the case may be:

Provided that, if the Municipal authority does not agree with the opinion of the Health Officer, the matter shall be referred to the Director of Public Health whose decision shall be final.

(2) In the event aforesaid, if the Health Officer considers that immediate action is necessary in the interests of public health, he may, notwithstanding anything contained in sub-section (1), appoint such additional staff and obtain such medicines, appliances, equipment and other things as may be necessary; and the expenses incurred in respect thereof shall be met from the funds of the Municipal authority.

(3) Every appointment made under sub-section (2) shall be reported forthwith to the executive authority and by such authority to the Municipal authority concerned at its next meeting.

Provision and maintenance of isolation hospitals and wards.

70. (1) (*a*) The Municipal authority may and if so required by Our Government shall, provide or cause to be provided, hospitals, wards or other places for the reception and treatment of persons suffering from infectious diseases.

(*b*) For the purpose of the reception and treatment of such persons a Municipal authority may

(i) itself build such hospitals, wards or places of reception, or

(ii) contract for the use of any such hospital or part of a hospital or place of reception, or

(iii) enter into an agreement with any person having the management of any such hospital, for the reception and treatment therein of persons suffering from infectious diseases.

(*c*) For the purpose aforesaid, two or more Municipal authorities may in combination provide a common hospital or place of reception.

(2) A Municipal authority shall not be deemed to have discharged its obligation under sub-section (1) unless the hospitals, wards or places of reception in question are maintained in accordance with such general or special orders as may from time to time be issued by the Director of Public Health.

Provision of ambulances, etc.

71. A Municipal authority may, and if so required by the Director of Public Health shall,—

(*a*) provide and maintain suitable conveyances, with sufficient attendants and other requisites, for the free carriage of persons suffering from any infectious disease, and

(*b*) provide proper places and apparatus and establishment, for the disinfection of conveyances, clothing bedding or other articles which have been exposed to infection; and when any conveyances, clothing, bedding or articles are brought to and such place for disinfection, may cause them, at its discretion, to be disinfected, either free of charge, or on payment of such fee as it may fix.

72. If in any Municipal area, any infectious disease transmissible to man breaks out or is in the opinion of the Health Officer likely to break out, amongst cattle, or other animals, it shall be the duty of the Health Officer to recommend to the Municipal authority by the adoption of such measures as he may deem necessary for suppressing o mitigating the disease or for preventing the outbreak of threatened out,. break thereof ; and the Municipal authority shall consider such recommendations and take such action thereon as to it may seem suitable.

Prevention of infectious disease transmissib e from animals

PART VI.

CONTROL OVER INSANITARY BUILDINGS.

73. (1) No person shall erect a new building within a Municipal area on any ground which has been filled up with faecal or offensive vegetable or offensive animal matter or upon which any such matter has been deposited, unless and untill the Health Officer certifies that such matter has been properly removed by excavation or otherwise, or has become or been rendered innocuous.

New building not to erected on certain sites.

(2) Against the refusal of the Health Officer to issue a certificate under sub-section (1), an appeal shall lie to Our Government whose decision shall be final.

74. (1) If any court yard or passage which is used in common by the occupants of two or more buildings, but is not a public street, is not regularly swept and kept clean and free from rubbish or other accumulation to the statisfaction of the Health Officer, he may cause such court yard or passage to be swept and cleansed.

Cleaning of court. yard or passsge used in common.

(2) The Municipal authority may recover any expenses reasonably incurred by the Health Officer under sub-section (1) from the occupants of the buildings which front or about on the court or yard, or to which the passage affords access, in such proportions as may be determined by the Health Officer.

75. (1) If any dwelling house or portion thereof appears to the Health Officer to be unfit for the purpose of human habitation, he may in cases not falling under Section 51 apply to the Municipal authority to prohibit the use there of for such purpose, and such authority shall make an order prohibiting the use of such dwelling house or portion for human habi ation until in the opinion of the Health Officer it is rendered fit therefor.

Dwelling house unfit for human habitation to be vacated.

Provided that before making an order under this sub-section, the Municipal authority shall give the owner and the occupier or accupiers, if any, concerned a reasonable opportunity of showing cause why it should not be made.

(2) When any order has been made under sub-section (1), the executive authority shall cause a copy of the order to be communicated

to the owner as well as to every occupier concerned: and every such occupier shall be bound to cease to inhabit the dwelling house or portion thereof, as the case may be, within thirty days after the communication of the order to him.

(3) The owner of any dwelling house or portion of a dwelling house in respect of which an order under sub-section (1) is in force, shall not let or occupy or permit to be let or occupied, such dwelling house or portion, or any part thereof, as a human habitation.

Back-to-back houses not to be erected without permission.

76. Notwithstanding anything contained in any other law or provision having the force of law, for the time being in force, no person shall, without the previous permission of the Health Officer, erect within any municipal area any back-to-back houses intended to be used as dwelling houses and any such house the erection of which is begun after the commencement of this Act without such permission shall be deemed to be unfit for human habitation within the meaning of Section 75.

PART VII.

WATER-SUPPLY.

Municipal authority to provide potable water.

77. (1) Every Municipal authority may, and if Our Government so direct shall, provide or arrange for the provision of a sufficient supply of drinking water for consumption by the inhabitants of the area within its jurisdiction.

(2) The Municipal authority shall, so far as may be practicable, make adequate provision for securing—

(*a*) that the water-supply is continuous throughout the year and

(*b*) that the water supplied is at all times wholesome and fit for human consumption.

(3) A Municipal authority may also provide or arrange for the provision of a sufficient supply of water for other domestic purposes or for non-domestic purposes.

Power of Government to direct Municipal authority to execute water works.

78. (1) If in the opinion of Our Government a Municipal area does not possess a sufficient supply of wholesome water fit for the consumption of its inhabitants, they may direct the Municipal authority concerned, either singly or in combination with the Municipal authority or authorities having jurisdiction over any area or areas in the neighbourhood which are similarly situated to execute within such time as Our Government may fix, such works as may be directed by Our Government for providing a sufficient supply of wholesome water fit for human consumption.

(2) A Municipal authority may, with the previous sanction of Our Government.

(*a*) construct, lay, or erect filters, reservoirs, engines, conduits, pipes or other works without the limits of its area, for supplying such area with water ;

(*b*) purchase or take on lease any water work, or any water, or any right to store or to take or convey water, either within or without the limits of its area ; and

(*c*) contract with any Municipal authority or other person or agency for the supply of water.

(3) A Municipal authority may, with the previous sanction of Our Government, by public notice, declare any lake, stream, spring, well, tank, reservoir, pond or other source of water-supply, whether within or without the limits of its area (other than a source under the control of Our Government) from which water is or may be made available for the use of the public in the Municipal area for domestic purposes, to be a source of public water-supply for such purposes and every such source shall thereafter be under the control of the Municipal authority, only to the extent necessary for such purposes.

Power of Government to divert water from water main b longing to a Municipal authority.

79. Our Government shall have power to take water from any water main belonging to, or in the control of, a Municipal authority for supplying water to any other area, subject to such payment being made to the Municipal authority concerned and subject also to such other conditions as Our Government may consider reasonable.

Provided that before taking action under this section, Our Government shall communicate to the Municipal authority the grounds on which they propose to do so, fix a reasonable period for the Municipal authority to show cause against the proposal and consider its explanations or objections, if any.

Power of Division Peishkar in regard to water supply.

80. (1) The Division Peishkār or any other officer appointed by Our Government in this behalf, may cause inquiries to be made in any local area or part thereof, with a view to ascertaining.

(*a*) whether the source of water supply for such local area or part is contaminated from any cause against which effective means of protection can be taken, and

(*b*) whether the provisions of any additional source or sources of water-supply is necessary for such local area or part.

(2) The Peishkar or other officer aforesaid may, after taking into consideration the result of such inquiries by notice, direct that any source of water-supply be cleaned, improved, repaired or otherwise protected from contamination, or that such additional source or sources of water supply be provided, as the case may be:

Provided that before issuing a notice under this sub-section, the Peishkar or other officer shall give the authorities or persons affected, a reasonable opportunity to make any representations they may wish to make and consider the same.

(3) Against any direction issued by the Peishkar or other officer under sub-section (2), an appeal shall lie to Our Government whose decision shall be final.

(4) (*a*) Every notice issued under sub-section (2) shall specify the nature and extent of the works to be executed, the estimated cost thereof, and the authority or authorities or the person or persons by whom, and the period within which, they are to be executed.

(*b*) The notice shall either—

(i) be published in the prescribed manner : or

(ii) be served on the Municipal authority or on the person owing or having control over the source of water-supply as the case may be, in the prescribed manner.

(5) If the directions contained in any notice issued under sub-section (2) have not been satisfactorily complied with, the officer issuing the notice may himself cause the works specified in the notice to be executed provided that he may, on sufficient cause being shown extend the period specified in the notice, or modify or rescind any direction contained therein.

(6) (*a*) If a water tax imposed in the Municipal area, the cost of carrying out the works specified in the notice issued under sub-section (2), whether such works are executed by the authority or person specified therein or under sub-section (5) by the officer issuing the notice, shall be borne by the Municipal authority concerned.

(*b*) If no water tax is imposed in the Municipal area, such cost shall be borne by the inhabitants of the area who, on inquiry, are found to be benefited by the works or shall be shared between such inhabitants and the Municipal authority concerned in such proportions as may be determined by Our Government.

Explanation.—For the purposes of this sub-section "water-tax" means

(*a*) a tax levied under Section 83 of this Act,

(*b*) a water and drainage tax levied under Section 61 of the Travancore Municipal Act, V of 1095 or Section 95 of the Trivandrum City Municipal Act.

Power of Director of Public Health to direct Municipal authority to improve water supply

81. If the Director of Public Health is satisfied upon investigation that any source of public water-supply in a Municipal area is contaminated or is subject to imminent risk of contamination by reason of unsatisfactory location, protection, construction, operation or maintenance, and speedy remedy or immediate prevention is, in his opinion, desirable, he may, by order, direct the Municipal Authority to take such measures as may be specified therein; and the Municipal authority shall take action accordingly.

Health Officer's powers in regard to insanitary sources.

82. (1) The Health Officer may at any time by written notice require that the owner of, or any person having control over, any lake, stream, spring, well tank, reservoir, pond or other source of water-supply in a Muncipal area which is used for drinking, bathing or washing clothes shall, whether the same is private property or not, within a reasonable time to be specified in the notice, or in any case falling under clause (*d*) within such time as may be specified in the notice not being less than thirty six hours from the receipt thereof.

(*a*) keep and maintain any such source of supply in such manner as the Health Officer may direct ; or

(*b*) cleanse any such source of water-supply from silt, refuse and vegetation: or

(*c*) protect any such source of water-supply from pollution by surface drainage in such manner as the Health Officer may direct: or

(*d*) fill in, repair, protect or enclose in such manner as the Health Officer may direct, any such source of water-supply if for want of sufficient repair, protection or enclosure, such source of water-supply is in his opinion dangerous to the health or safety of the public or of any persons having occasion to use or to pass or approach the same, or

(*e*) desist from using, and from permitting others to use, for drinking purposes any such source of water supply if, in the opinion of the Health Officer the water is unfit for drinking, or

(*f*) close any such source of water-supply either temporarily or permanently, or fill up, enclose or fence the same in such manner as the Health Officer considers sufficient to prevent the use thereof for drinking purposes, if in his opinion the water is unfit for drinking, or

(*g*) drain off or otherwise remove from any such source of water-supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the Health Officer considers to be either injurious to health or offensive to the neighbourhood.

Provided that the provisions of clauses (*a*) and (*d*) shall not apply to a stream,

Provided further that a notice shall not be issued under clause (*f*) unless a notice has first been issued under clause (*e*) and the source of water-supply in question continues to be used for drinking purposes notwithstanding the issue of such notice, and the Health Officer considers that such use cannot be prevented otherwise than by the issue of a notice under clause (*f*).

(2) If the owner or person having control as aforesaid fails or neglects to comply with any notice issued under sub-section (1) with in the time specified therein, the Health Officer may, if immediate action is necessary to protect the health or safety of any person or persons,

at once proceed to execute the work specified in such notice, and all the expenses incurred in respect thereof by the Health Officer shall be paid by the owner of, or person having control over, such source of water-supply, and shall be recoverable as if it were a tax due to the Municipal authority concerned.

Provided that in the case of any private source the water of which is used by the public or by any section of the public as of right, the expenses which have been incurred by the Health Officer or which, in the opinion of the Municipal authority, have been necessarily incurred by the owner of, or person having control over, the source of water-supply shall be paid from the funds of the Municipal authority.

Levy of water-tax and ear-marking the proceeds for water-works

83. (1) Any Municipal authority may with the previous sanction of Our Government and shall, if so directed by them, levy within its area or any part thereof, any tax which may be necessary for providing water-supply in such area or part.

(2) Any tax levied under sub-section (1) may be a new tax levied on such basis and assessed and realised is such manner as may be sanctioned or directed by Our Government, or may be a tax or additional tax levied under any head of taxation specified in any law for the time being in force governing the Municipal authority concerned in which case all the provisions of such law relating to the incidence, assessment, of realization of a tax under such head or in any manner connected therewith shall be applicable to the tax or additional tax, with such modifications and restrictions, if any, as may be prescribed.

(3) (*a*) The rates at which any tax may be levied under this section shall be determined by the Municipal authority with the previous sanction of Our Government in case the tax is levied by the Municipal authority of its own motion and by the Government in case the tax is levied at their direction.

(*b*) The Municipal authority may with the previous sanction of Our Government and shall, if so directed by them, alter the rates at which any such tax is to be levied.

(4) (*a*) Every Municipal authority levying a tax under this section shall earmark the net revenue therefrom for expenditure on the execution, maintenance and improvement of works of water-supply, in the Municipal area or part thereof within which it is levied.

(*b*) Such revenue shall be expended in accordance with such orders as may be issued by Our Government in this behalf.

(5) Nothing contained in this section shall be deemed to affect the power of the Corporation of Trivandrum to levy a water and drainage tax under Section 95 of the Trivandrum City Municipal Act, or of any municipality governed by the Travancore Municipal Act V of 1095 to levy a water and drainage tax under Section 61 of that Act.

84. No o of any dwelling-house which may be constructed or re-constructed after the commencement of this Act in any municipal area shall occupy it or cause or permit it to be occupied, until he has obtained a certificate, from the officer of the Public Health Department of the Municipal authority concerned, not below the rank of Health or Sanitary Inspector, that there is within the house, or within a reasonable distance therefrom, a supply of wholesome water sufficient for the domestic purposes of the inmates of the house.

New house not to be occupied without adequate water-supply.

PART VIII.

DRAINAGE.

85. (1) Every Municipal authority shall, so far as the funds at the disposal may permit, provide and maintain a sufficient and satisfactory system of public drains for the effectual draining of its area.

Municipal authority to maintain public draining

(2) If, in the opinion of Our Government, any Municipal area or part thereof should, for any special reason, be provided with a system of public drains or with any other means of drainage they may direct the Municipal authority to provide or execute, within such time as may be fixed by them in this behalf, such works as may be considered necessary by them.

(3) The Municipal authority shall at all times keep in good repair all drains, cess, pools, and the like vested in or belonging to them.

86. (1) If any premises within a Municipal area are in the opinion of the Health Officer without sufficient means of effectual drainage, he may, by notice, direct the owner of such premises to construct a drain leading therefrom to the nearest public drain or other place set apart by the Municipal authority for the discharge of sewage:

Power of Health Officer to require drains to be constructed.

Provided that—

(a) the cost of constructing that portion of the drain which is situated more than one hundred feet from the said premises, shall be paid from out of the funds of the Municipal authority concerned, and

(b) if, in the opinion of the Health Officer, there is no public drain or other place set apart for the discharge of sewage within a reasonable distance of such premises, he may, by notice, require the owner of the premises to construct—

(i) a closed cesspool, tank, filter or other work of such material size and description, as he may direct, and

(ii) a house-drain communicating with such closed cesspool, tank, filter or other work.

(2) Where by reason of a Municipal authority changing its system of drainage or undertaking a new system of drainage, it becomes necessary for the owner of any premises to reconstruct or alter any drain, the cost of the reconstruction or alteration of such drain shall be borne

wholly by the Municipal authority, or wholly by the owner, or partly by the Municipal authority and partly by the owner, in accordance with such rules as may be prescribed.

Drains in private streets.

87. Where in any Municipal area a house-drain belonging to one or more premises has been laid in any private street which is common to more than one premises and the Health Officer considers it desirable that any other premises should be drained into such drain, he may, by notice, require the owner of such premises to connect his house-drain with such first mentioned drain and the owner or owners of such first-mentioned drain shall thereupon be bound to permit such connection to be made:

Provided that no such connection shall be made—

(a) except upon such terms as may be mutually agreed upon between or among the owners concerned, or

(b) in default of such agreement, except upon such terms as may be laid down by the Municipal authority and in particular, until any payment which may be directed by the Municipal authority to be made to the owner or owners concerned, has been duly made.

Drainage for huts.

88. (1) Drains for the drainage of huts in any Municipal area shall be of such size and description, and be constructed of such material, as may be considered by the Health Officer to be practicable, having regard to the circumstances of the locality and the position of the nearest public drain or other place set apart by the Municipal authority for the discharge of sewage.

(2) If the Health Officer considers that a new drain should be constructed for the benefit of the occupants of any hut, he may, by notice require the owner of the land on which such hut stands, to construct such drain and such owner shall construct such drain, and cause it to be cleansed and repaired to the satisfaction of the Health Officer.

Drainage of court-yard, alley, passage, etc.

89. For the purpose of efficiently draining any land or building in any Municipal area the Health Officer may, by notice, require the owner of any court, yard, alley, lane, passage or open space

(a) to pave the same with such material and in such manner as may be approved by the Health Officer and to keep such paving in proper repair, or

(b) to raise the level of such court, yard, alley, lane, passage or open space.

Explanation.—It shall be open to the Health Officer to require that in any case both the measures specified in clauses (a) and (b) of this section shall be taken.

Construction and closure of cesspools.

90. (1) No person shall construct a cesspool—

(a) within a Municipal area beneath any part of any building or within fifty feet of any tank, reservoir, water-course or well or within such other distance therefrom as the Health Officer may consider to be practicable having regard to the circumstances of the locality: or

(b) within any Municipal area, or outside such area but within three hundred feet of any reservoir used for the storage of filtered water to be supplied to such area, except upon a site and in a position which have been approved in writing by the Health Officer.

2. The Health Officer may, at any time, by notice, require any person within whose premises any cesspool is constructed in contravention of sub-section (1) to remove such cesspool or to fill it up with such material as may be approved by him.

Prohibition of occupation of new building without drains.

91. No owner of any building constructed or reconstructed after the commencement of this Act in any Municipal area shall occupy it, or cause or permit to be occupied, until he has obtained a certificate from the Health Officer that the building has been provided with sufficient means of drainage.

Sullage or sewage not to be let out into streets

92. No person having control over any building or land in any Municipal area shall cause or allow.

(a) the water of any sink, sewer, latrine or sanitary convenience, or any other liquid or other matter which is, or is likely to become, offensive to run or drain into or to be thrown or put upon, any street or open space or to soak through any external wall, or

(b) any offensive matter from any sewer, latrine or sanitary convenience, to run, drain or be thrown into a surface drain in any street.

Injurious refuse not to be discharged into public drain.

93. No person shall, save as may be generally or specially prescribed, throw, empty or turn, or suffer or permit to be thrown, emptied or turned or to pass into any public drain, or into any drain communicating with a public drain within any Municipality.

(a) any matter likely to injure the drain or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of such contents; or

(b) any liquid being refuse or steam or other liquid which is, either alone or in combination with the contents of the drain, dangerous, or the cause of a nuisance, or prejudicial to health; or

(c) any explosive or inflammable substance.

94. No person shall, save as may be generally or specially prescribed,

Pollution of water courses prohibited.

(1) put or cause to be put, or cause to fall or flow or be carried, or knowingly permit to be put or to fall or flow or be carried, into any water-course in any Municipal area.

(a) any solid or liquid sewage matter, or

(b) any poisonous, noxious or polluting liquid proceeding from any manufactory or manufacturing process, or

(2) put, or cause to be put, or cause to fall or be carried, or knowingly permit to be put or to fall or be carried, into any water-course in any Municipal area so as, either singly or in combination with other similar acts of the same or any other person, to interfere with the due flow of such water-course, or to pollute the water therein, the solid refuse of any manufactory, manufacturing process or quarry or any rubbish or cinders, or any other waste or putrid solid matter, or

(3) commit nuisance in or in the neighbourhood of any water-course in any Municipal area.

CHAPTER IV.

MOSQUITO CONTROL.

Prohibition of mosquito breeding in collections of water.

95. (1) If the provisions of this section have been extended to any area no person or authority in such area shall, after such extension.

(a) have, keep, or maintain within such area any collection of standing or flowing water in which mosquitoes breed or are likely to breed, or

(b) cause, permit, or suffer any water within such area to form a collection in which mosquitoes breed or are likely to breed,

unless such collection has been so treated as effectively to prevent such breeding.

Explanation.—Troughs used for cattle and in frequent use shall not until the contrary is proved, be deemed to be collections of water in which mosquitoes breed or are likely to breed.

(2) The natural presence of mosquito larvae in any standing or flowing water shall be evidence that mosquitoes are breeding in such water.

Treatment of mosquito breeding places

96. (1) The Heath Officer exercising jurisdiction within the area may, by notice in writing require the owner or the occupier of any place within such area containing any collection of standing or flowing water in which mosquitoes breed or are likely to breed, within such time as may be specified in the notice, not being less than twenty-four hours, to take such measures with respect to the same, or to treat the same by such physical, chemical or biological method, being measures or a method, approved

by the Director of Public Health as the Health Officer may consider suitable in the circumstances.

(2) If a notice under sub-section (1) is served on the occupier, he shall, in the absence of a contract, expressed or implied, to the contrary, be entitled to recover from the owner the reasonable expenses incurred by him in taking the measures or adopting the method of treatment, specified in the notice, and may deduct the amount of such expenses from the rent which is then, or which may thereafter be, due from him to the owner.

Health Officer's powers in case of default

97. If the person on whom a notice is served under Section 96 fails or refuses to take the measures, or adopt the method, of treatment specified in such notice within the time specified therein, the Health Officer may himself take such measures or adopt such treatment and recover the cost of doing so from the owner or occupier of the property as the case may be, in the same manner as if it were a revenue due on land.

Protection of anti-mosquito works.

98. Where, with the object of preventing the breeding of mosquitoes in any land or building, Our Government or any Municipal authority, or the owner or occupier at the instance of Our Government or any Municipal authority has constructed any works in such land or building, the owner for the time being as well as the occupier for the time being of such land or building shall prevent its being used in any manner which causes, or is likely to cause, the deterioration of such works, or which impairs, or is likely to impair their efficiency.

Prohibition of interference with such works

99. (1) No person shall without the consent of the Health Officer, interfere with injure, destroy or render useless, any work executed or any material or thing placed, in under, or upon any land or building, by or under the orders of the Health Officer with the object of preventing the breeding of mosquitoes therein.

(2) If the provisions of sub-section (1) are contravened by any person the Health Officer may re-execute the work or replace the materials or things, as the case may be, and the cost of doing so shall be recovered from such person in the same manner as if it were a revenue due on land.

Power of Health staff to enter and inspect premises.

100. For the purpose of enforcing the provisions contained in this Chapter, the Health Officer or any of his subordinates not below the rank of Health or Sanitary Inspector may, at all reasonable times, after giving such notice in writing as may appear to him reasonable, enter and inspect any land or building within his jurisdiction: and the occupier or the owner as the case may be, of such land or building, shall give all facilities necessary for such entry and inspection, and supply all such information as may be required of him for the purpose aforesaid.

CHAPTER V.

Rules, Bye-Laws, Penalties, &c.

101. (1) Our Government shall in addition to the rule-making powers conferred on them by any other provision contained in this Act have power to make rules generally to carry out the purposes of this Act.

Power of Government to make rules.

(2) In particular and without prejudice to the generality of the power conferred by sub-section (1) Our Government may make rules.

(a) with reference to all matters expressly required or allowed by this Act to be prescribed and

(b) regulating the situation in which sanitary conveniences for the use of the public shall be constructed by a Municipal authority and the number of such sanitary conveniences.

102. (1) In making a rule under Section 38 Our Government may provide that a breach of such rule shall be punishable with imprisonment which may extend to three months or with fine or with both.

Penalty for breach of rules.

(2) In making a rule under any other provision contained in this Act, Our Government may provide that a breach of such rule shall be punishable—

(i) with fine which may extend to one hundred rupees, and in case of a continuing breach with fine which may extend to thirty rupees for every day during which the breach continues after conviction for the first breach ; or

(ii) with fine which may extend to twenty rupees for every day during which the breach continues after receipt of notice from the executive authority or the Health Offficer to discontinue such breach.

103. (1) The power to make rules under this Act shall be subject to the following conditions:—

Procedure for making and the effect of rules.

(a) A draft of the rules shall be published in Our Government Gazette.

(b) Such draft shall not be further proceeded with until six weeks after such publication or until such later date as Our Government may appoint.

(2) All rules made under this Act shall be published in Our Government Gazette and upon such publication shall have effect as if enacted in this Act.

104. Any Municipal authority may make bye-laws, not inconsistent with this Act or the rules made thereunder or with any other law, for carrying out all or any of the purposes of this Act.

Bye-laws by Municipal authorities.

105. In making a bye-law the Municipal authority may provide that a breach thereof shall be punishable

Breach of byelaws.

(a) with fine which may extend to fifty rupees, and in case of a continuing breach with fine which may extend to fifteen rupees for every day during which the breach continues after conviction for the first breach or

(b) with fine which may extend to ten rupees for every day during which the breach continues after receipt of notice from the executive authority or the health Officer to discontinue such breach.

106. In regard to byelaws made by a Municipal authority under Sections 104 and 105 the following provisions shall apply, namely:—

Procedure for making or altering bye-laws.

(a in case the Municipal authority is the Corporation of Trivandrum, Sections 369, 370, 372 and 374 of the Trivandrum City Municipal Act:

(b) in case the Municipal authority is a Municipality constituted under the Travancore Municipal Act, V of 1095, Section 246 of that Act.

107. (1) Whoever—

Penalties for offences against Act, etc.

(*a*) contravenes any of the provisions of this Act specified in the first and second columns of Schedules I; or

(*b*) contravenes any rule or order made under any of the provisions so specified ; or

(*c*) fails to comply with any direction lawfully given to him, or any requisition lawfully made upon him, under or in pursuance of any of the said provisions,

shall be punished with fine which may extend to the amount mentioned in that behalf in the fourth column of the said Schedule.

(2) Whoever after having been convicted of—

(a) contravening any of the provisions of the Act specified in the first and second columns of Schedule II; or

(b) contravening any rule or order made under any of the provisions so specified; or

(c) failing to comply with any direction lawfully given to him or any requisition lawfully made upon him, under or in pursuance of any of the said provisions

continues to contravene the said provision or the said rule or order, or continues to fail to comply with the said direction or requisition, shall be punished for each day after the previous date of conviction during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the fourth column of the said Sche-

Explanation. The entries in the third column of Schedules I and II headed "Subject" are not intended as definitions of the offences described in the provisions specified in the first and second columns thereof, or even as abstracts of those provisions, but are inserted merely as reference to the subject dealt with therein.

Penalty for preventing entry of executive authority or Health Officer.

108. Every person who prevents the executive authority or the Health Officer or any person to whom the executive authority or the Health Officer has lawfully delegated his powers of entering on or into any land or building, from exercising his lawful power of entering thereon or thereinto, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

MISCELLANEOUS.

Appeal against decisions of Health Officer.

109. Any decision of the Health Officer against which an appeal is not otherwise provided for in this Act shall be subject to such appeal as may be prescribed.

Method of serving notices.

110. (1) When any notice is required to be given by this Act, or by any rule, bye-law, Act or order made under it, such notice shall be given—

(*a*) by giving or tendering the notice to such person; or

(*b*) if such person is not found, by leaving such notice at his last known place of abode or business or by giving or tendering the same to some adult member or servant of his family; or

(*c*) if such person does not reside in the area and his address elsewhere is known to the authority by sending the same to him by Anchal or Post registered; or

(*d*) if none of the means aforesaid be available, by affixing the same in some conspicuous part of such place of abode or business.

(2) When the person is an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier in the notice, and in the case of joint owners and occupiers it shall be sufficient to serve it on, or send it to, one of such owners or occupiers.

Congnizance of offences against the Act.

111. No person shall be tried for any offence against the provisions of this Act, or of any rules, or bye-law made under it, unless complaint is made within three months of the commission of the offence by the Police or the executive authority or the Health Officer, or by a person expressly authorised in this behalf by the Municipal authority, the executive authority or the Health Officer.

Provided that nothing contained in this section shall affect the provisions of the Code of Criminal Procedure, in regard to the power of certain Magistrates to take cognizance of offences upon information received or upon their own knowledge or suspicion.

112. Any police officer who sees a person committing an offence against any of the provisions of this act or of any rule or bye-law made thereunder, may arrest such person, if his name and address are unknown to the officer and such person on demand declines to give his name and address or gives a name and address which the officer has reason to believe to be false.

Powers of Police Officers to arrest offenders against Act, etc.

113. (1) The executive officer of a Municipal authority or any member of the Public Health establishment not below the rank of Health or Sanitary Inspector who sees a person committing any of the offences specified in sub-section (2) in the area over which such officer or member has jurisdiction, may arrest such person, if his name and address are unknown to the executive officer or member aforesaid and such person on demand declines to give his name and address or gives a name and address which such officer or member has reason to believe to be false. Any person so arrested shall be handed over to the officer in charge of the nearest police station as expeditiously as possible.

Powers of executive officer and public health staff to arrest offenders against Act, etc.

(2) The offences referred to in sub-section (1) are—

(*a*) offences against any of the provisions of this Act or of any rule or byelaw made thereunder ; and

(*b*) offences falling under any of the provisions of the Acts mentioned below if such provisions are in force in the area over which the Municipal authority has jurisdiction—

(i) Chapters VII to XIII, both inclusive of the Trivandrum City Municipal Act, read with Section 375 of that Act and Schedules V and VI thereto and

(ii) Section 4 of the Travancore Food Adulteration Act, 1106.

114. No person arrested under Section 112 or section 113 shall be detained in custody—

Persons arrested not to be detained unnecessarily.

(*a*) after his true name and address have been ascertained, or

(*b*) for a longer period than under all the circumstances of the case is reasonable and such period shall not, in the absence of the special order of a Magistrate, whether having jurisdiction to try the case or not, exceed twenty-four hours, exclusive of the time necessary for the journey of such person to the Court having jurisdiction to try the case.

115. (1) No suit, prosecution or other proceeding shall lie, against any Municipal Authority or any executive authority of a Municipal authority or against Our Government or any officer or servant of a Municipal authority or of Our Government, or against any person appointed under

Bar of suits and prosecutions in certain cases.

Section 11 of this Act, for any act done or purporting to be done under this Act without the previous sanction of Our Government.

(2) No Municipal authority or executive authority of a Municipal authority, no officer or servant of any Municipal authority or of Our Government and no person appointed under Section 11 of this Act, shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

Punishment for malicious abuse of powers.

116. Any executive authority of a Municipal authority or any officer or servant of a Municipal authority or of Our Government, or any person appointed under section 11 of this Act, who maliciously abuses any powers conferred on him by or under this Act, shall be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

Explanation :—No prosecution shall be instituted under this section without the previous sanction of Our Government.

Act to override other enactments.

117. If any provision relating to public health contained in any other enactment in force in Travancore is repugnant to any provision contained in this Act, the latter provision shall prevail and the former provision shall, to the extent of the repugnancy, be void.

SCHEDULE I

ORDINARY PENALTIES

[See Section 107 (1)]

Section	Sub-Section or clause	Subject	Fine which may be imposed
17	...	Failure to give information regarding existence of certain infectious diseases	Five rupees
18	(2)	Failure to comply with notice prohibiting the use of unwholesome water	One hundred rupees
20	...	Exposing other persons to infection	Twenty five rupees
21	(a)	Infected persons carrying on trade in articles of food	Fifty rupees
	(b)	Infected persons engaging in other occupations without permit	Fifty rupees
24	...	Failure to give information of notified diseases	Ten rupees
27	...	Failure to close lodging houses, etc.	One hundred rupees
28	...	Sending infected cloths to a laundry or depositing infected articles in a receptacle for refuse matter	Fifty rupees
29	(1),(2), (3)& (5)	Using or permitting use of public conveyance by an infected person	Fifty rupees
30	...	Letting or sub-letting of infected building without a permit	Fifty rupees
31	...	Exposing other persons to infection	Fifty rupees
32	(1)	Failure to comply with notice forbidding work in infected premises	Fifty rupees
33	...	Use of books from public libraries by infected persons, etc.	Fifty rupees
34	(1),(2), (4)&(5)	Delay in disposing of dead body of an infected person or allowing others unnecessarily to come into contract with it, etc,	Fifty rupees
35	...	Failure to comply with order prohibiting assemblages of 5 or more persons	One hundred rupees
37	(1)	Failure to take steps for the destruction of rats, mice etc.	Twenty rupees
	(2)	Faifure to comply with the notice for the destruction of rats, mice, etc.	Fifty rupees
39	(1)	Selling etc. unsound meat or food	One hundred rupees

Schedule I—(contd.)

Section.	Sub-Section or clause	Subject.	Fine which may be imposed.
41	...	Selling, etc. unsound meat or food through others	One hundred rupees
43	...	Consuming the flesh of any animal which has died of natural causes	One hundred rupees
	...	Constructing or reconstructing building intended for human habitation with out a sanitary convenience	Fifty rupees
44	...	Failure to comply with notice regarding provision of sanitary conveniences or latrines	Fifty rupees
45	(1)	Failure to construct and maintain latrines in the prescribed manner	Fifty rupees
	(2)	Failure to comply with notice regarding removal or improvement of latrines	Fifty rupees
	(3)	Causing injury to latrines	Fifty rupees
49	...	Failure to comply with notice to abate nuisance	Fifty rupees
51	...	Failure to comply with Magistrate's order prohibiting the use of a house or building	One hundred rupees
56	(1)	Deposting filth, rubbish, etc. in streets	Twenty five rupees
	(2)	Easing or permitting a member of the family to ease in a street, etc	Twenty five rupees
57	...	Keeping a lodging house or receiving a lodger without registration	One hundred rupees
62	(1)	Failure to affix notice	Ten rupees
	(2)	Refusal to allow free access to the executive authority, etc., to all parts of the lodging house	One hundred rupees
66	(1)	Unlawfully importing meat from outside the Municipal area	One hundred rupees
66	(2)	Infected persons carrying on trade, etc., in articles of food	One hundred rupees
67	...	Failure to furnish information regarding the sources of supply of milk or dairy produce	Fifty rupees
68	... (5)	Failure to comply with the order prohibiting the supply of milk or dairy produce	Two hundred rupees

Schedule I—(contd.)

Section.	Sub-Section or clause	Subject.	Fine which may be imposed
73	...	Illegal erection of building on insanitary ground	Two hundred rupees
75	(2)& (3)	Failure to cease to inhabit a dwelling house declared unfit for human habitation or permitting it to be let or occupied as a dwelling house	Two hundred rupees
76	...	Constructing back-to back houses without permission	One hundred rupees
82	(1)	Failure of the owner or other person having control to obey or comply with the directions contained in a notice requiring to keep any well, etc., in good repair, to cleanse it, or protect etc.	Fifty rupees
84	...	Owner of new dwelling house occupying or permitting its occupation without a supply of wholesome water	Fifty pupees
86	(1)	Failure to comply with notice to provide efficient drainage	Fifty rupees
87	...	Failure to comply with notice requiring to connect a house drain with an outside drain	One hundred rupees
88	...	Failure on the part of the owner of land to comply with notice requiring a drain for a hut on the land	Fifty rupees
89	...	Failure to comply with notice for paving or raising the level of any court, yard. etc.,	Fifty rupees
90	(1)	Unlawful construction of cess-pool or construction of cess-pool on unapprved site	Fifty rupees
	(2)	Failure to comply with notice requiring removal or closure of cess-pool	One hundred rupees
91	...	Occupying or permitting occupation of new building without drain	Fifty rupees
92	...	Letting out sullage or sewage into a street etc.,	Fifty rupees
93	(1)	Discharging injurious refuce, etc., into a drain	One hundred rúpees
94	...	Polluting water-course	One hundred rupees

Schedule I—(contd)

Section.	Sub-Section of clause.	Subject.	Fine which may be imposed.
96	(1)	Failure to comply with notice requiring steps to be taken against breeding of mosquitoes	Fifty rupees
98	...	Permitting the deterioration of works relating to prevention of the breeding of mosquitoes	Two hundred rupees
99	(1)	Injuring or destroying anti-mosquito works	Five hundred rupees

SCHEDULE II.

PENALTIES FOR CONTINUING BREACHES.
[See Section 107 (2).]

Section.	Sub-section of clause.	Subject.	Fine which may be imposed.
18	(2)	Failure to comply with notice prohibiting the use of unwholesome water	Twenty rupees
20	...	Exposing other persons to infection	Five rupees
21	(a)	Infected persons carrying on trade in articles of food	Ten rupees
	(b)	Infected persons engaging in other occupations without permit	Ten rupees
27	...	Failure to close lodging houses, etc	Twenty rupees
31	...	Exposing other persons to infection	Ten rupees
32	(1)	Failure to comply with notice forbidding work in infected premises	Ten rupees
37	(1)	Failure to take steps for the destruction of rats, mice, etc.	Five rupees
	(2)	Failure to comply with notice for the destruction of rats, mice, etc.	Five rupees
39	( )	Selling, etc., unsound meat or food	Twenty rupees
40	...	Selling, etc., unsound meat or food through others	Twenty rupees
43	...	Constructing or reconstructing a building intended for human habitation without a sanitary convenience	Ten rupees
44	...	Failure to comply with notice regarding provision of sanitary conveniences or latrines	Ten rupees
45	2)	Failure to comply with notice requiring removal or improvement of latrines	Ten rupees
49	...	Failure to comply with notice to abate nuisance	Ten rupees

SCHEDULE II.

PENALTIES FOR CONTINUING BREACHES.

[See Section 107, (2).]

Section.	Sub-section or clause.	Subject.	Fine which may be imposed.
51	...	Failure to comply with Magistrate's order prohibiting the use of a house or building	Twenty rupees
57	...	Keeping a lodging house or receiving a lodger with out registration	Fifty rupees
62	(1)	Failure to affix notice	Five rupees
	(2)	Refusal to allow free access to the executive authority, etc., to all parts of the lodging house	Fifty rupees
66	(2)	Infected person carrying on trade, etc., in articles of food	Twenty rupees
68	(5)	Failure to comply with the order prohibiting the supply of milk or dairy produce	Fifty rupees
75	2 & 3	Failure to cease to inhabit a dwelling house declared unfit for human habitation; or permitting it to be let or occupied as a dwelling house	Fifty rupees
76	...	Constructing back-to-back houses without permission	Twenty rupees
82	(1)	Failure of the owner or other person having control to obey or comply with the directions contained in the notice requiring to keep any well, etc., in good repair, to cleanse it or protect, etc	Ten rupees
84	...	Continuing to occupy a dwelling house to permit its occupation without a supply of wholesome water	Ten rupees
86	(1)	Failure to comply with notice to provide efficient drainage	Ten rupees
87	...	Failure to comply with notice requiring to connect a house drain with an outside drain	Ten rupees
88	...	Failure on the part of the owner of land to comply with notice requiring a drain for a hut on the land	Twenty rupees

SCHEDULE II.

PENALTIES FOR CONTINUING BREACHES.

(See Section 107 (2).

Section.	Sub-section or clause.	Subject.	Fine which may be imposed.
89	...	Failure to comply with notice for paving or raising the level of any court, yard, etc,	Ten rupees
90	(2)	Failure to comply with notice requiring removal or closure of cesspool	Ten rupees
92	...	Letting out sullage or sewage into a street	Ten rupees
93	...	Discharging injurious refuse, etc,, into a drain	Twenty rupees
94	...	Polluting water-course	Ten rupees
96	(1)	Failure to comply with notice requiring steps to be taken against the breeing of mosquitoes	Ten rupees

STATEMENT OF OBJECTS AND REASONS.

The question of a public health legislation applicable to the whole State has been engaging the attention of Government for some time past. Dr. Jacocks whose services were requisitioned by Government has rendered invaluable service to the State in the investigation of its public health problems. The administration of public health laws is now centered in the Municipal Authorities established under the Municipal Act, V of 1095 and each Municipality is solving the public health problems affecting its area within the means available to it and subject to and circumscribed by limitations peculiar to individual authorities. Unlike other problems, the problem of public health is one which cannot be dealt with in isolated places. The municipal areas may be the places which require constant and serious attention in this respect but any amount of attention bestowed in a municipal area without any unified effort for dealing with the problem outside such area will be ineffective. The Municipal Act, the Village Panchayat Act, the Village Unions Act, the Epidemic Diseases Act and the Food Adulteration Act contain some provisions calculated to deal with public health problems of specified areas. But the development in communal life and the discoveries consequent on the advance of science have established beyond all doubt that the existing provisions are inadequate, that decentralised or isolated administration of public health rules will be of no effect and that any problem of public health affecting the whole or any part of the State must be dealt with under the superintendence and guidance of one authority functioning in the State. Moreover, the existing provisions of law are inadequate to deal with some of the new problems that have arisen in regard to public health matters. The Bill is intended to deal with these problems. From a detailed examination of the provisions of the Bill, it will be found that it is proposed to invest the Director of Public Health with certain statutory powers of controlling and supervising all public health matters throughout the State. To give effect to it, it is proposed that all Public Health Officers, whether employed in Municipalities or other places, shall be subordinate to the Director of Public Health. Certain diseases are declared to be infectious diseases and in respect of certain particular infectious diseases, in the Bill referred to as notified diseases, certain special provisions are also made. Chapter III deals with matters peculiar to municipal areas. The existing provisions are found to be inadequate. The question of the control of mosquitoes has been engaging the attention of Government for some time past. Several lakhs of rupees have been spent for the purpose in certain mosquito-ridden places and it is the idea of Government to extend the activities to other places as well. But in order that the results achieved should be enduring, if not permanent, it is necessary to provide for and enforce certain penalties for interference with works relating to mosquito control or the failure to take certain directions with regard to such control. It is not however intended to make the provisions applicable to any specific area, but power is reserved with Government to apply the said provisions and the rules that may be framed thereunder to

any specified area. Drinking water, drainage, latrine, water courses, milk trade, lodging house and food control are some of the matters dealt with in the Bill. The notes on clauses indicate briefly the general intention underlying each of the clauses in the Bill.

NOTES ON CLAUSES.

Clause 1 gives the short title and extent of the Act.

Clause 2 deals with the commencement of the Act. Under sub-clause (2), the provisions of Chapter III are to come into force in all the municipal areas of the State from the date of the passing of the Act. Provision is made in sub-clause (3) empowering Government to extend the provisions of Chapter III to any Village Panchayat or a Village Union; while sub-clause (4) provides that Government may apply the provisions of Chapter IV to any municipal or other specified area in the State.

Clause 3 defines the various terms and expressions used in the Act.

Clause 4 deals with the appointment of a Director of Public Health and Health Officers for the purpose of giving effect to the provisions of the Act.

Clause 5 empowers Government to authorise any Government officer or a Municipal officer to exercise the powers of a Health Officer under the Act.

Clause 6 gives statutory recognition to the Director of Public Health and his staff.

Clause 7 confers on the Director of Public Health the power to advise the Municipal Authorities on matters of public health.

Clause 8 confers on Government the power to prescribe the scales of the Public Health establishment for Municipal Authorities and the conditions of the services etc., of the members of such establishment.

Clause 9 deals with the appointment of Health Officers.

Clause 10 deals with the appointment of temporary Health Officers in emergencies.

Clause 11 empowers Government to appoint any person to carry out all or any of the provisions of the Act. Sub-clause (2) provides for the recovery of the expenses incurred by such person from the Municipal Authority concerned.

Clause 12 confers on the Director of Public Health the power to transfer members of Public Health establishment from one municipal area to another.

Clause 13 vests in the Health Officer the control over the Public Health establishment in a municipal area.

Clause 14 casts an obligation on every Municipal Authority to provide the necessary office accommodation and clerical assistance to the Health Officer.

Clause 15 deals with the authorisation of Health Officer to exercise the functions of executive authority in public health matters subject to the control of Government.

Clause 16 defines the expression 'infectious disease'

Clause 17 casts an obligation on every medical practitioner to give information regarding infectious diseases.

Clause 18 prohibits the use of water from suspected sources.

Clause 19 provides for the removal of infected persons to a hospital for treatment.

Clause 20 prohibits the exposure of other persons to infection by persons suffering from infectious diseases or persons having the care of such persons.

Clause 21 prohibits infected persons from engaging in food trade or other occupations.

Clause 22 defines the expression 'notified infectious diseases'

Clause 23 empowers the Health Officer, in cases of emergency and with the sanction of the Division Peishkar to occupy and use houses in order to prevent the spread of infection.

Clause 24 casts an obligation on every medical practitioner to give information regarding notified diseases.

Clause 25 deals with the power of entry of Municipal officers in order to take preventive measures against the spread of notified diseases.

Clause 26 provides for the destruction of huts or sheds to prevent the spread of infection.

Clause 27 confers power on the Magistrate to direct the closure of a lodging house until it is certified to be free from infection.

Clause 28 prohibits the sending of infected clothes to a laundry and the depositing of infected matter in dustbins or other places.

Clause 29 prohibits the use of public conveyances by persons suffering from notified diseases.

Clause 30 prohibits letting, except with a special permit from the Health Officer, of a building occupied by an infected person.

Clause 31 prohibits the exposure of other persons to infection by persons suffering from notified diseases and persons having the care of such persons.

Clause 32 forbids work in infected premises.

Clause 33 prohibits the use of public libraries by persons suffering from a notified disease.

Clause 34 provides for the disposal of bodies of persons who die while suffering from notified diseases.

Clause 35 confer powers on a Magistrate to prohibit assemblages of fifty or more persons in order to prevent the spread of infectious disease.

Clause 36 empowers Government to confer special powers on officers in order to control notified diseases.

Clause 37 provides for the destruction of rats and other animals susceptible to plague.

Clause 38 confers on the Government the power to make rules for the prevention, treatment and control of infectious and other diseases.

Clause 39 prohibits the sale of unsound food.

Clause 40 prescribes the punishment for the contravention through others (including children under seven years of age) of the provisions of Section 39 of the Act or of Section 4 of the Travancore Food Adulteration Act, 1106.

Clause 41 prohibits the consumption of the flesh of animals which have died on account of natural causes.

Clause 42 casts an obligation on every Municipal Authority to provide for public sanitary conveniences.

Clause 43 makes it obligatory on the owners of new houses to provide them with sanitary conveniences.

Clause 44 provides for compelling the owners of the existing buildings to provide adequate sanitary conveniences.

Clause 45 deals with the mode of construction and maintenance of latrines.

Clause 46 indicates in greater detail certain cases which fall within the scope of the definition of nuisance given in Clause 3 of the Bill.

Clause 47 deals with the detection of nuisance.

Clause 48 provides for giving information of any nuisance to the Health Officer.

Clause 49 confers power on the Health Officer to direct the abatement of nuisance.

Clause 50 confers power upon the Municipal Authority to abate nuisance in cases of default.

Clause 51 provides for prohibiting the occupation of houses rendered unfit for human habitation by reason of nuisance.

Clause 52 makes provision for the disposal of articles removed while abating nuisance.

Clause 53 empowers the Executive Authority or a Health Officer to enter premises for the purpose of inspection.

Clause 54 empowers Government to take action in cases of default by the Municipal Authority or its Health Officer.

Clause 55 empowers the Municipal Authority to take action where nuisance is caused from outside the Municipal area.

Clause 56 prohibits the depositing of rubbish etc., in street, stream or in any drain beside the street or open space as also the easing or permitting others to ease in the places afore-mentioned.

Clause 57 provides for the registration of lodging houses.

Clause 58 provides for the maintenance of a register of lodging houses.

Clause 59 lays down the conditions of registration and of its renewal.

Clause 60 provides for an appeal to a Municipal Authority if an Executive Authority refuses to grant or renew registration.

Clause 61 empowers Government to make rules for the upkeep and maintenance of lodging houses.

Clause 62 provides for a notice being affixed outside a lodging house.

Clause 63 provides for the cancellation of registration by Court on conviction of a keeper of a lodging house.

Clause 64 prohibits in certain cases the import of meat into the municipal area without a permit from the Health Officer.

Clause 65 empowers the Health Officer to enter any premises used for food trade for purposes of inspection.

Clause 66 empowers the Health Officer to take preventive steps in cases where infected persons carry on food trade.

Clause 67 empowers the Health Officer to investigate the causes of outbreaks of infectious diseases which are attributable to milk or dairy produce.

Clause 68 empowers the Health Officer to inspect any dairy which supplies milk to the municipal area.

Clause 69 provides for the appointment of additional staff by a Municipal Authority or the Health Officer in an emergency.

Clause 70 provides for the maintenence of isolation hospitals and wards by a Municipal Authority.

Clause 71 deals with the provision of ambulance for the transport of persons suffering from infectious diseases and of places of disinfection of clothes and other infected articles.

Clause 72 deals with the prevention of infectious diseases transmitted from animals.

Clause 73 prohibits the erection of a new building on ground filled with offensive matter.

Clause 74 provides for the cleansing of courts, yards and passages which are used in common.

Clause 75 prohibits the occupation of dwelling houses which are unfit for human habitation.

Clause 76 prohibits the construction of back-to-back houses.

Clause 77 imposes an obligation on a Municipal Authority to provide a continuous supply of wholesome drinking water, if Government so direct.

Clause 78 confers on Government the power to direct a Municipal Authority to undertake and execute the necessary works in order to provide its municipal area with an adequate supply of wholesome water.

Clause 79 empowers Government to divert water from water-main belonging to a Municipal Authority in certain cases.

Clause 80 provides for the holding of inquiries in regard to the quality and the quantity of the water supply in the Municipal area and for rectifying the defects, if any, shown to exist as a result of such inquiry.

Clause 81 empowers the Director of Public Health to require a Municipal Authority to take the necessary preventive steps in regard to sources of public water supply.

Clause 82 confers certain powers upon the Health Officer in respect of insanitary sources of water supply.

Clause 83 provides for the levy of a water-tax by the Municipal Authorities.

Clause 84 prohibits the occupation of new houses without adequate water supply.

Clause 85 casts an obligation on every Municipal Authority to provide and maintain a satisfactory system of public drains.

Clause 86 provides for efficient drainage of any premises within a municipal area.

Clause 87 provides for a connection from a house-drain to a drain already laid on a private street, and the conditions on which such connection should be made.

Clause 88 provides for the drainage of huts.

Clause 89 provides for the drainage of courts, yards, alleys, passages, etc.

Clause 90 controls the construction of cess-pools.

Clause 91 prohibits the occupation of new building without sufficient means of drainage.

Clause 92 prohibits the letting out into streets of sullage or sewage.

Clause 93 prohibits injurious refuse being discharged into public drains.

Clause 94 prohibits the pollution of water-courses within a municipal area

Clause 95 prohibits the keeping of collections of water in which mosquitoes breed.

Clause 96 provides for suitable treatment of mosquito breeding places.

Clause 97 empowers the Health Officer to carry out the works specified in Clause 96 in case of default, and to recover the cost from the person concerned.

Clause 98 provides for the protection of anti-mosquito works.

Clause 99 prohibits the interference with any anti-mosquito works.

Clause 100 empowers a Health Officer to enter any land or building for the purpose of inspecting the premises.

Clause 101 empowers Government to frame rules to carry out the purposes of the Act.

Clause 102 provides for the imposition of a penalty for breach of rules made under the Act.

Clause 103 lays down the procedure for the making of rules under the Act.

Clause 104 empowers Municipal Authorities to make bye-laws not inconsistent with the Act or the rules framed thereunder.

Clause 105 prescribes the penalty to be provided for a breach of the bye-law.

Clause 106 lays down the procedure to be followed in making or amending bye-law.

Clause 107 provides penalties for offences against the provisions of the Act.

Clause 108 prescribes a penalty for the offence, of preventing the entry on any land or building of an Executive Authority or Health Officer for the discharge of his duties.

Clause 109 provides for the filing of appeals against the decisions of a Health Officer.

Clause 110 prescribes the method to be followed in the services of notices.

Clause 111 deals with the cognizance of offences against the provisions of the Act.

Clause 112 deals with the powers of Police Officers to arrest persons committing offences against provisions of the Act.

Clause 113 deals with the powers of Executive Officer and Public Health staff to arrest offenders in respect of certain offences.

Clause 114 provides that the persons arrested under the provisions of Clauses 112 and 113 shall not be detained unnecessarily.

Clause 115 provides for the bar of suits and prosecutions in certain cases.

Clause 116 prescribes a penalty for the malicious abuse of powers of an Executive Authority or an officer of a Municipal Authority or Government.

Clause 117 provides that the provisions of the Act will over-ride the provisions of any other enactment in force in Travancore in cases of repugnancy between them.

S. KRISHNA PILLAI,
Legal Remembrancer.

Annexure VIII.

R. O. C. No. 323 of 41/Legis,

The following Bill together with the Statement of Objects and Reasons, is published as ordered by the Dewan, under Rule 31 of the Travancore Legislative Rules.

Huzur Cutcherry, (By order) M. K. NILAKANTA AIYAR,
Trivandrum, 8th March 1941. *Chief Secretary to Government.*

THE TRAVANCORE INSURANCE ACT (AMENDMENT) BILL.

Preamble.

Whereas it is expedient further to amend the Travancore Insurance Act, (Act XIX of 1114) as amended by Acts XV of 1115 and VI of 1116 for certain purposes; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called The Travancore Insurance (Second Amendment) Act, 1116.

(2) It extends to the whole of Travancore.

(3) It shall come into force at once.

Amendment of Section 2, Act XIX of 1114.

2. In sub-clause (*a*) of clause (9) of Section 2 of the Travancore Insurance Act (Act XIX of 1114) as amended by Acts XV of 1115 and VI of 1116 (hereinafter referred to as the said Act) after the word "double" the words "or triple" shall be inserted.

Amendment of Section 3, Act XIX of 1114.

3. In Section 3 of the said Act,—

(*a*) in sub-section (1), a colon shall be substituted for the full-stop appearing after the word "registration," and the following proviso shall be added and shall be deemed always to have been added, namely:—

"Provided that in the case of an insurer who was carrying on any class of insurance business in Travancore at the commencement of this Act, failure to obtain a certificate of registration in accordance with the requirements of this sub-section shall not operate to invalidate any contract of insurance entered into by him if before the expiry of one month from the commencement of the Insurance (Second Amendment) Act, 1116, he has obtained that certificate;

(*b*) in clause (*e*) of sub-section (2) and in sub-section (4) for the word "Travancore" the word "India" shall be substituted, and for the words "nationals of Travancore" the words "Indian nationals" shall be substituted;

(*c*) for sub-section (5) the following sub-section shall be substituted and shall be deemed always to have been substituted, namely:—

"(5) The Registrar of Insurance shall cancel the registration of an insurer either wholly or in so far as it relates to a particular class of insurance business as the case may be,—

(a) if the insurer fails to comply with the provisions of Section 7 or Section 98 as to deposits, or

(b) if the insurer is in liquidation or is adjudged an insolvent, or

(c) if the business or a class of the business of the insurer has been transferred to any person or has been transferred to or amalgamated with the business of any other insurer, or

(d) if the whole of the deposit made in respect of a class of insurance business has been returned to the insurer under Section 9;"

(d) in sub-section (6) for the word, brackets and figure "sub-section (5)" the words, brackets, letter and figure "clause (a) of sub-section (5)" shall be substituted and shall be deemed always to have been substituted;

(e) after sub-section (6) the following sub-sections shall be inserted and shall be deemed always to have been inserted, namely :—

"(7) When the Registrar of Insurance cancels any registration under clause (b), clause (c) or clause (d) of sub-section (5) the cancellation shall take effect on the date on which notice of the order of cancellation is served on the insurer.

(8) When a registration is cancelled the insurer shall not, after the cancellation has taken effect, enter into any new contracts of insurance, but all rights and liabilities in respect of contracts of insurance entered into by him before such cancellation takes effect shall, subject to the provisions of sub-section (10), continue as if the cancellation had not taken place.

(9) Where a registration is cancelled under clause (a) of sub-section (5), the Registrar of Insurance may at his discretion revive the registration, if the insurer within six months from the date on which the cancellation took effect makes the deposits required by Section 7 or Section 98, as the case may be, and complies with any directions which may be given to him by the Registrar of Insurance.

(10) Where a registration is cancelled under sub-section (5) and the insurer is a company incorporated under the Travancore Companies Act, 1114, or under the Travancore Companies Act, 1092, or under any Act repealed thereby, the Registrar of Insurance shall, as soon as may be after the expiry of six months from the date on which the cancellation took effect, apply to the Court for an order to wind up the insurance company, or to wind up the affairs of the company in respect of a class of insurance business, unless the registration of the insurance

company has been revived under sub-section (9) or an application for winding up the company has been already presented to the Court. The Court may proceed as if an application under this sub-section were an application under sub-section (2) of Section 53, or sub-section (1) of Section 58, as the case may be."

4. In Section 7 of the said Act,

Amendment of Section 7, Act XIX of 1114.

(*a*) in sub-section (1),—

(i) for the words "cash or approved securities estimated at the market value of the securities on the day of deposit of the amount hereafter specified, namely" the words "the amount hereafter specified either in cash or in approved securities estimated at the market value of the securities on the day of deposit, or partly in cash and partly in approved securities so estimated" shall be substituted and shall be deemed always to have been substituted:

(ii) in clause (d), for the words "is accident and miscellaneous insurance (including employers' liability insurance, aircraft insurance, bond investment insurance and motor vehicle insurance)" the following shall be substituted and always to have been substituted, namely:—

"is miscellaneous insurance only, that is to say insurance which is not in the opinion of Our Government principally or wholly of any kind or kinds included in clauses (*a*), (*b*), or (*c*)";

(iii) in clauses (*h*) and (*i*), for the word "includes" the word "is" shall be substituted;

(iv) the word "and" at the end of clause (*i*) and the whole of clause (*j*) shall be omitted;

(v) the following shall be added as the first proviso to the sub-section namely:—

"Provided that where the business done or to be done is marine insurance only and relates exclusively to country craft or its cargo or both, the amount to be deposited under this sub-section shall be rupees ten thousand only,"

(vi) in the existing proviso for the word "Provided" the words "Provided further" shall be substituted;

(*b*) in sub-section (7), for the words "on the day of the first deposit made in compliance with this Act" the words "as at the date of the commencement of this Act," and for the words "in respect of the life insurance business of the insurer" the words "as the instalment or as part of the instalment to be made under the foregoing provisions of this section before the application for registration is made whether any such application is or is not in fact made" shall be substituted and shall be deemed always to have been substituted, respectively;

(*c*) in sub-section (8), after the words "and shall" the words "except to the extent, if any, to which the cash has been invested in securities under sub-section (9A)" shall be inserted and shall be deemed always to have been inserted;

(*d*) for sub-section (9), the following sub-sections shall be substituted and shall be deemed always to have been substituted, namely :—

"(9) the insurer may at any time replace securities deposited by him under this section with Our Accountant-General either by cash or by other approved securities or partly by cash and partly by other approved securities, provided that such cash, or the value of such other approved securities estimated at the market rates prevailing at the time of replacement, or such cash together with such value, as the case may be, is not less than the value of the securities replaced estimated at the market rates prevailing when they were deposited.

(9A) Our Accountant-General shall, if so requested by the insurer,—

(*a*) sell any securities deposited by him with Our Accountant-General under this section and hold the cash realised by such sale as deposit, or

(*b*) invest in approved securities specified by the insurer the whole or any part of a deposit held by him in cash or the whole or any part of cash received by him on the sale of or on the maturing of securities deposited by the insurer and hold the securities in which investment is so made as deposit.

(9B) Where sub-section (9A) applies,—

(*a*) if the cash realised by the sale of or on the maturing of the securities (excluding in the former case the interest accrued) falls short of the market value of the securities at the date on which they were deposited with Our Accountant General, the insurer shall make good the deficiency by a further deposit either in cash or in approved securities estimated at the market value of the securities on the day on which they are deposited, or partly in cash and partly in approved securities so estimated, within a period of two months from the date on which the securities matured or were sold or where the securities matured or were sold before the commencement of the Insurance (Second Amendment) Act, 1116, within a period of two months from the commencement of the said Act: and unless he does so the insurer shall be deemed to have failed to comply with the requirements of this section as to deposits ; and

(*b*) if the cash realised by the sale of or on the maturing of the securities (excluding in the former case the interest accrued) exceeds the market value of the securities at the date on which they were deposited with Our Accountant General, Our Government may, if satisfied that the full amount required to be deposited under sub-section (1) is in deposit, direct Our Accountant-General to return the excess."

(*e*) in sub-section (10), after the words "approved securities" the words "estimated at the market value of the securities on the day of deposit, or partly in cash or partly in such securities" shall be inserted.

Amendment of Section 27, Act XIX of 1114.

5. In the proviso to sub-section (4) of Section 27 of the said Act, for the words "commencement of this Act," the words and figures "31st day of December 1939" shall be substituted.

Amendment of Section 28, Act XIX of 1114.

6. In Section 28 of the said Act,—

(*a*) in sub-section (1) after the word and figures "Section 27" the words "and all other particulars necessary to establish that the requirements of that section have been complied with" shall be inserted;

(*b*) in sub-section (2),—

(1) after the word and figures "Section 27" the following shall be inserted, namely :—

"or for the purpose of securing the particulars necessary to establish that the requirements of that section have been complied with;"

(2) for the words "and the insurer shall comply with all requisitions made by the Registrar in that behalf" the following shall be substituted, namely :—

"The insurer shall comply with any requisition made in this behalf by the Registrar of Insurance, and if he fails to do so within two months from the receipt of the requisition he shall be deemed to have made default in complying with the requirements of this section."

Amendment of Section 35, Act XIX of 1114.

7. In Section 35 of the said Act,—

(*a*) in sub-section (1), after the words "shall be transferred to" the words "any person or transferred to" shall be inserted and for the words "insurers concerned" the words "parties concerned" shall be substituted;

(*b*) in sub-section (3), for clauses (*b*) and (*c*), the following shall be substituted, namely :—

"(*b*) balance-sheets in respect of the insurance businesss of each of the insurers concerned in such amalgamation or transfer, prepared in the Form set forth in Part II of the First Schedule and in accordance with the regulations contained in Part I of that Schedule;

(c) actuarial reports and abstracts in respect of the life insurance business of each of the insurers so concerned, prepared in conformity with the requirements of Part II of the Fourth and Fifth Schedules and in accordance with the regulations contained in Part I of the Schedule concerned;

(d) a report on the proposed amalgamation or transfer, prepared by an independent actuary who has never been professionally connected with any of the parties concerned in the amalgamation or transfer at any time in the five years preceding the date on which he signs his report;

(e) any other reports on which the scheme of amalgamation or transfer was founded.

The balance sheets, reports and abstracts referred to in clauses (b), (c) and (d) shall all be prepared as at the date at which the amalgamation or transfer if sanctioned by the Court is to take effect, which date shall not be more than twelve months before the date on which the application to the Court is made under this section:

Provided that if Our Government so directs in the case of any particular insurer there may be substituted respectively for the balance-sheet, report and abstract referred to in clauses (b) and (c) prepared in accordance with this sub-section certified copies of the last balance-sheet and last report and abstract prepared in accordance with Sections 11 and 13, if that balance-sheet is prepared as at a date not more than twelve months, and that report and abstract as at a date not more than five years, before the date on which the application to the Court is made under this section."

8. To Section 36 of the said Act the following words shall be added, namely:—

Amendment of Section 36, Act XIX of 1114

"and shall make such consequential orders as are necessary to give effect to the arrangement, including orders as to the disposal of any deposit made under Section 7 or Section 98"

9. In Section 39 of the said Act,—

Amendment of Section 39, Act XIX of 1114.

(1) In sub-section (1), after the words "policy of life insurance," the words "on his own life" shall be inserted;

(2) in sub-section (6), for the word "policy holder" the words "person whose life is insured" shall be substituted.

10. In Section 48 of the said Act, for sub-section (2) the following sub-section shall be substituted and shall be deemed always to have been substituted namely:—

Amendment of Section 48 Act XIX of 1114.

"(2) This section shall not take effect, in respect of any Company in existence at the commencement of this Act until the expiry of one year therefrom and in respect of any Company incorporated after the commencement of this Act, until the expiry of two years from the date of registration to carry on life insurance business."

11. For Sections 65 and 66 of the said Act, the following sections shall be substituted and shall be deemed always to have been substituted, namely:—

Substitution of new sections for Sections 65 and 66, Act XIX of 1114.

"65. (1) In this Part "provident society" means a person who, or a body of persons (whether corporate or unincorporate) which, not being an insurer registered for the time being under Part II of this Act, carries on the business of insuring the payment, on the happening of any of the contingencies mentioned in sub-section (2), or—

Definition of provident society.

(a) an annuity of or equivalent to fifty rupees or less, payable for an uncertain period, or

(b) a gross sum of five hundred rupees or less, whether paid or payable in a lump sum or in two or more instalments over a certain period,

exclusively in both cases (a) and (b) of any profit or bonus not being a guaranteed profit or bonus.

Explanation. For the purposes of this sub-section, a period is 'certain' if its duration is ascertainable in advance and 'uncertain' if its duration is not so ascertainable.

(2) The contingencies referred to in sub-section (1) are the following, namely.—

(a) the birth, marriage, or death of any person or the survival by a person of a stated or implied age or contingency;

(b) failure of issue;

(c) the occurrence of a social, religious or other ceremonial occasion;

(d) loss of or retirement from employment;

(e) disablement in consequence of sickness or accident;

(f) the necessity of providing for the education of a dependent;

(g) any other contingency which may be prescribed or which may be authorised by Our Government.

(3) For the purposes of sub-sections (1) and (2)—

(a) contracts entered into before the commencement of this Act shall not be taken into account;

(b) two or more policies issued to one person shall, for the purposes of determining whether the limits fixed by sub-section (1) have or have not been exceeded, be deemed to be one policy if the contingencies on the happening of which the sums are payable under the policies (whether the contingencies be the same or different) relate to one person only, whether he be the policy-holder or some other person.

(4) Every person or body of persons for the time being registered as a provident society under the Travancore Provident Insurance Societies Act of 1108, and every person or body of persons for the time being registered as provident society under this Act shall be deemed to be a provident society for all the purposes of this Act.

(5) If any question arises whether any person or body of persons is or is not a provident society within the meaning of this section, the Registrar of Insurance shall decide the question and his decision shall be final.

Restrictions on provident societies.

66. No Provident society shall undertake any form of insurance not falling within the limits fixed by sub-section (1) of section 65, nor shall any provident society be eligible to be registered under Section 3."

Amendment of Section 73, Act XIX, of 1114.

12. In sub-section (3) of Section 73 of the said Act, after the brackets and figure "(9)" the brackets, figures and letters "(9A)," "(9B)" shall be inserted, and after the word and figure "Section 8" the words and figure "and of Section 9" shall be inserted.

Amendment of Section 84, Act XIX of 1114.

13. In Section 84 of the said Act, before the word and figures "Section 65," the words, brackets and figure "sub-section (2) of" shall be inserted.

Amendment of Section 85, Act, XIX of 1114.

14. In Section 85 of the said Act—

(a) in sub-section (3)—

(i) for the words "any director, or officer of the society" the words "any director, manager, managing agent, auditor, actuary, officer or partner of the society" shall be substituted,

(*b*) in sub-section (3)—

(i) for the words "any director, or officer of the society" the words "any director, manager, managing agent, auditor, actuary, officer or partner of the society" shall be substituted;

(ii) for the words "a director or officer of the society is a director or partner" the following words shall be substituted, namely:—

"a director, manager, managing agent, actuary, officer or partner of the society is a director, manager, managing agent, actuary, officer or partner;"

(c) after sub-section (3) the following sub-section shall be inserted, namely:—

"(3A) Any loan prohibited under sub-section (3) made before and out-standing at the commencement of the Insurance (Second Amendment) Act 1116, shall be repaid within six months from the date of such commencement and in case of default the director, manager, managing agent, auditor, actuary, officer or partner who had received the loan or is connected with the concern which has received, the loan as the case may be, shall cease to hold office in or be a partner of the society and shall be ineligible to hold office in or be a partner of the society until the loan is repaid."

(d) in sub-section (4), for the words "or officer" the words "manager, managing agent, auditor, actuary, officer or partner" shall be substituted.

15. In sub-section (2) of Section 98 of the said Act, for the word "year," in both places where it occurs, the words "calendar year" shall be substituted.

Amendment of Section 98, Act XIX of 1114.

16. After Section 106 of the said Act, the following section shall be inserted namely:—

Insertion of a new Section 106 A in Act XIX of 1114.

"106A. (1) When application is made to the Court for the making of any order to which this section applies the Court shall, unless the Registrar of Insurance has himself made the application or has been made a party thereto, send a copy of the application together with intimation of the date fixed for the hearing thereof to the Registrar of Insurance, and shall give him an opportunity of being heard.

Notice to and hearing of Registrar of Insurance.

(2) The orders to which this section applies are the following, namely:—

(a) an order for the attachment in execution of a decree of any deposit made under Section 7 *or Section* 73 or Section 98;

(b) an order under Section 9 or Section 59 for the return of any such deposit;

(c) an order under Section 36 sanctioning any arrangement for the transfer or amalgamation of life insurance business or any order consequential thereon;

(d) an order for the winding up of an insurance company or a provident society;

(e) an order under Section 58 confirming a scheme for the partial winding up of an insurance company;

(f) an order under Section 89 reducing the amount of the insurance contracts of a provident society."

Amendment of Section 114, Act XIX of 1114.

17. In sub-section (2) of Section 114 of the said Act,—

(i) in clause (g), before the word and figures "Section 65," the words, brackets and figure "sub-section (2) of" shall be inserted;

(ii) the word "and" at the end of clause (j) shall be omitted: and

(iii) after clause (k), the following clause shall be inserted, namely:—

"(l) any other matter which is to be or may be prescribed."

Amendment of First Schedule, Act XIX of 1114.

18. In Form A contained in Part II of the First Schedule to the said Act, in the first column, in the entry "Accident and Miscellaneous Insurance Business Account" the words "Accident and" shall be omitted.

Amendment of Third Schedule, Act XIX of 1114.

19. In the Third Schedule to the said Act,—

(a) in Part I, in regulation 2, the words "accident and" and the words "including employers' liability insurance and motor vehicles insurance" shall be omitted.

(b) in Part II.—

(i) in note (a) appended to Form D, for the words "payable outside Travancore," the words "ordinarily paid outside Travancore" shall be substituted, and the following sentence shall be added, namely:—

"If any question arises whether any premiums are ordinarily paid outside Travancore, the Registrar of Insurance shall decide the question and his decision shall be final."

(ii) in the heading to Form F, the words "Accident and" the words "including employers' liability insurance and motor vehicles insurance business" shall be omitted.

STATEMENT OF OBJECTS AND REASONS.

The object of the Bill is to remove certain administrative difficulties and to rectify a few defects of a technical nature. Clauses 2, 3, 4 and 5 contain amendments to Sections 2, 3, 7 and 27. Additional provision is made in Clause 6 for ensuring that insurers furnish the

required particulars to establish that they have complied with Section 27, for default of which a sanction is also provided. The provisions of Section 35 regarding amalgamation and transfer of insurance business are amplified and enlarged by the proposed clause 7. The provisions contained in Section 65 and 66 regarding the definition of provident fund societies have been wholly recast with the object of clearly distinguishing provident societies from ordinary insurers and avoiding the possibility that the same body could at one and the same time be subject as a provident society to Part III of the Act, and as an insurer to the other provisions of the Act. *Vide* Clause 11. Provision is made in Clause 16 for notice being given to the Registrar of Insurance by the Court in all matters affecting insurers. The other amendments proposed in the several clauses of the Bill are either formal or consequential. Most of the amendments now proposed have already been adopted in British India.

S. KRISHNA PILLAI,
Legal Remembrancer.

Annexure IX.

E. O. C. No. 365 of 41/Legis.

The following Bill, together with the Statement of Objects and Reasons, is published as ordered by the Dewan, under Rule 31 of the Travancore Legislative Rules.

Huzur Cutcherry, (By order) M.K. NILAKANTA AIYAR,
Trivandrum, 17th March 1941. *Chief Secretary to Government.*

THE TRAVANCORE SUPPRESSION OF IMMORAL TRAFFIC BILL.

A BILL FOR THE SUPPRESSION OF BROTHELS AND IMMORALS TRAFFIC.

Preamble.

WHEREAS it is expedient to make better provision for the suppression of brothels and of traffic in women in Travancore: It is hereby enacted as follows:--

Short title.

1. This Act may be called the Travancore Suppression of Immoral Traffic Act, 1111.

Extent and commencement.

2. Our Government may, from time to time, by notification in Our Government Gazette, apply all or any of the provisions of this Act to the whole or any portion of Travancore from such date as may be specified in the notification, and may cancel or modify any such notification.

3. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) "Brothel" means any house, room, or place which the occupier or person in charge thereof habitually allows to be used by any other person for the purpose of prostitution.

(b) "Magistrate" means a salaried Magistrate of the First Class.

(c) "Prostitution" means promiscuous sexual intercourse for hire.

Punishment for keeping a brothel or allowing premises to be used as a brothel.

4. (1) Any person who keeps or manages or acts or assists in the management of a brothel shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

(2) Any person who,

(a) being the tenant, lessee, occupier or person in charge of any premises, knowingly permits such premises or any part thereof to be used as a brothel; or

(b) being the lessor or landlord of any premises, or the agent of, such lessor or landlord, lets the same, or any part thereof to any person convicted under sub-section (1) or clause (a) of this sub-section with the knowledge that such premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the use of such premises, or any part thereof, as a brothel;

shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees or with both.

(3) Notwithstanding anything contained in any other law for the time being in force, the owner or lessor of any house, room or place, in respect of which the lessee, tenant, or occupier thereof has been convicted under clause (*a*) of sub-section (2) shall be entitled forthwith to determine such lease, tenancy or occupation.

Punishment for living on the earnings of prostitution

5. (1) Any person not below the age of eighteen years who knowingly lives, wholly or in part, on the earnings of the prostitution of another person shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

(2) Where any person is proved—

(*a*) to be living with, or to be habitually in the company of, a person living in prostitution, or

(*b*) to have exercised control, direction or influence over the movements of a person living in prostitution in such a manner as to show that such person is aiding, abetting or compelling her prostitution with any other person or generally,

it shall be presumed until the contrary is proved that such person is knowingly living on the earnings of the prostitution of another within the meaning of sub-section (1) :

Provided that the mother, or a son or daughter, of a person living in prostitution shall not be punished under sub-section (1) for living on the earnings of such person unless it is proved to the satisfaction of the Court that such mother, son or daughter is aiding, abetting or compelling her prostitution.

(3) Notwithstanding anything contained in Section 2, this section shall not be applied except to the City of Trivandrum or a municipality constituted under the Travancore Municipal Act V of 1095 or an area situated within three miles of the limits of such City or municipality.

Importing woman for prostitution.

6. Any person who takes or attempts to take or causes to be taken from one place to another any woman with a view to her carrying on or being brought up to carry on or being brought up to carry on the business of prostitution or causes or induces any woman to carry on the business of prostitution shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

Detention for prostitution in brothel or with intent.

(1) Any person who detains any woman against her will—

(*a*) in any house, room or place in which the business of prostitution is carried on, or

(*b*) in or upon any premises with intent that she may have sexual intercourse with any man other than her lawful husband,

shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

(2) A person shall be presumed to detain a woman who is in any house, room or place in which the business of prostitution is carried on, or in or upon any premises for the purpose of sexual intercourse with a man other than her lawful husband, if such person, with intent to compel or induce her to remain there,

(*a*) withholds from her any jewellery, wearing apparel or other property belonging to her, or

(*b*) threatens her with legal proceedings if she takes away with her any jewellery or wearing apparel lent or supplied to her by or by the direction of such person.

(3) Notwithstanding any law to the contrary, such a woman shall not be liable to be proceeded against civilly or criminally for taking away or being found in possession of any jewel, wearing apparel, money or other property alleged to have been lent or supplied to, or to have been pledged by such women by or to the person by whom she has been detained.

Procuration

8. Any person who induces a woman to go from any place with intent that she may, for the purposes of prostitution, become the inmate of or frequent a brothel, shall be punished with imprisonment which may extend to two years or with fine which may extend to one thousand rupees or with both.

Soliciting for purposes of prostitution.

9. Whoever,—

(1) in any street or public place, solicits any person for the purpose of prostitution, in such manner as to cause obstruction, annoyance or danger to the residents or passengers, or to offend against public decency, or

(2) frequents such street or public place, for the purpose of prostitution or of solicitation, so as to constitute a nuisance, or to offend against public decency,

shall be punished, with imprisonment for a term which may extend to two months, or with fine wihch may extend to one thousand rupees, or with both.

Arrest without a warrant.

10. (1) Any Police Officer not below the rank of Inspector may arest without a warrant any person who has been concerned in any offence under this Act or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in any such offence:

Provided that a person concerned or alleged or suspected to be concerned in an offence punishable under Section 9 shall be arrested under this section only if the name and address of such person be unknown to the Police Officer and cannot be ascertained by him then and there, or if he has reason to suspect that a false name and address have been given.

(2) Any Police Officer authorised in this behalf in writing by the Inspector General of Police by special order, may arrest without a warrant any person committing in his view any offence punishable under Sections 6, 7, 8 or 9, if the name and address of such person be unknown to such Police Officer and cannot be ascertained by him then and there, or if he has reason to suspect that a false name and address have been given.

Power to enter premises.

11. Notwithstanding anything contained in any other law for the time being in force, any Police officer not below the rank of Inspector, and any other Police officer authorised in this behalf in writing by the Inspector General of Police by special order, may, for the purpose of ascertaining whether an offence punishable under this Act has been or is being committed, enter without a warrant any premises in which he has reason to believe that any woman is living in respect of whom an offence punishable under this Act has been committed.

Trial of offences.

12. No Court inferior to that of a Magistrate as defined in clause (*b*) of Section 3 shall try any offence under this Act.

STATEMENT OF OBJECTS AND REASONS.

It cannot be denied that there should be statute law for combating the evils arising from prostitution. The absence of such a law is according to reports in the possession of Government being taken advantage of by persons outside the State who are tempted to settle down here. It is essential therefore to arm ourselves with the necessary statutory powers to deal with this problem. Government are satisfied after a study of the public health statistics, and investigations made on the basis of such statistics, that apart from decency and public morality, at least on grounds of public health, it is imperative that steps should be taken to deal with prostitution. Hence the Bill.

It may be seen from Clause 2 that it is not intended that the Act should come into operation at once, or that when it comes into operation it should apply to the whole of Travancore. It enables Government to make it applicable to such areas as in their opinion it should be applied to. By the definition of the word " Magistrate " given in sub-clause (b) of Clause 3, read with Clause 12, it is proposed that the power to try offences under the Act should be confined to salaried Magistrates exercising First Class powers. Clause 11 authorises Inspectors of Police and other officers of Police specifically authorised in that behalf to enter upon and search any place in respect of which an offence is reasonably suspected to have been committed. Though offences under the Act are cognizable, arrest and detention are allowed only where the accused refuses to give his or her name or where the officer suspects that a false name and address has been given. Clauses 4 to 9 deal with the different aspects of the problem, none of which can be omitted in drawing up a comprehensive enactment for the purpose.

S. Krishna Pillai,
Legal Remembrancer.

Annexure X.

R. O. C. No. 336 of 41/Legis.

The following Bill, together with the Statement of Objects and Reasons, is published as ordered by the Dewan, under Rule 31 of the Travancore Legislative Rules.

(By Order)

Huzur Cutcherry,
Trivandrum, 8th March 1941.

M, K. NILAKANTA AIYAR,
Chief Secretary to Governmen

THE TRAVANCORE EVIDENCE BILL.

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THE TRAVANCORE EVIDENCE BILL.

Preamble. Whereas it is expedient to consolidate, define and amend the Law of Evidence; It is hereby enacted as follows:—

PART I.

Relevancy of facts.

CHAPTER I.

Preliminary.

Short title. 1. This Act may be called the Travancore Evidence Act.

Extent. It extends to the whole of Travancore, and applies to all judicial proceedings in or before any Court; but not to affidavits presented to any Court or officer, nor to proceedings before an arbitrator;

Commencement of Act. and it shall come into force on.........

Repeal of enactment. 2. On and from that day all rules of evidence not contained in any Act in force in Travancore shall stand repealed.

But nothing herein contained shall be deemed to affect any provision of any Act in force in Travancore and not hereby expressly repealed.

Interpretation clause. 3. In this Act the following words and expressions are used in the following senses unless a contrary intention appears from the context:—

"Court." "Court" includes all judges and Magistrates, and all persons, except arbitrators, legally authorised to take evidence.

"Fact." "Fact" means and includes—

(1) any thing, state of things, or relation of things capable of being perceived by the senses;

(2) any mental condition of which any person is conscious.

Illustrations.

(*a*) That there are certain objects arranged in a certain order in a certain place, is a fact.

(*b*) That a man heard or saw something, is a fact.

(*c*) That a man said certain words, is a fact.

(*d*) That a man holds a certain opinion, has a certain intention, acts in good faith or fraudulently, or uses a particular word in a particular sense, or is or was at a specified time conscious of a particular sensation, is a fact.

(*e*) That a man has a certain reputation, is a fact.

"Relevant."

One fact is said to be relevant to another when the one is connected with the other in any of the ways referred to in the provisions of this Act relating to the relevancy of facts.

"Facts in issue".

The expression "facts in issue" means and includes—

any fact from which, either by itself or in connection with other facts, the existence, non-existence, nature or extent of any right, liability or disability, asserted or denied in any suit or proceeding, necessarily follows.

Explanation.—Whenever, under the provisions of the law for the time being in force relating to Civil Procedure, any Court records an issue of fact, the fact to be asserted or denied in the answer to such issue is a fact in issue.

Illustrations.

A is accused of the murder of B.

At his trial the following facts may be in issue :—

that A caused B's death ;
that A intended to cause B's death ;
that A had received grave and sudden provocation from B ;
that A, at the time of doing the act which caused B's death, was, by reason of unsoundness of mind, incapable of knowing its nature.

"Document".

"Document" means any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter.

Illustrations.

A writing is a document ;
Words printed, lithographed or photographed are documents ;
A map or plan is a document ;
An inscription on a metal plate or stone is a document ;
A caricature is a document.

"Evidence." "Evidence" means and includes—

(1) All statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry; such statements are called oral evidence;

(2) all documents produced for the inspection of the Court; such documents are called documentary evidence.

"Proved." A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.

"Disproved." A fact is said to be disproved when, after considering the matters before it, the Court either believes that it does not exist, or considers its non-existence so probable that a prudent man ought, under the circumstances of the parcticular case, to act upon the supposition that it does not exist.

"Not proved." A fact is said not to be proved when it is neither proved nor disproved.

"May presume." 4. Whenever it is provided by this Act that the Court may presume a fact it may either regard such fact as proved, unless and until it is disproved, or may call for proof of it:

'Shall presume." Whenever it is directed by this Act that the Court shall presume a fact, it shall regard such fact as proved, unless and until it is disproved.

"Conclusive proof." When one fact is declared by this Act to be conclusive proof of another, the Court shall, on proof of the one fact, regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it.

Chapter II.

Of the Relevancy of facts.

Evidence may be given of facts in issue and relevant facts. 5. Evidence may be given in any suit or proceeding of the existence or non-existence of every fact in issue and of such other facts as are hereinafter declared to be relevant, and of no others.

Explanation:—This section shall not enable any person to give evidence of a fact which he is disentitled to prove by any provision of the law for the time being in force relating to Civil Procedure.

Illustrations.

(*a*) A is tried for the murder of B by beating him with a club with the intention of causing his death.

At A's trial the following facts are in issue:—

A's beating B with the club;

A's causing B's death by such beating;

A's intention to cause B's death.

(*b*) A suitor does not bring with him, and have in readiness for production at the first hearing of the case, a bond on which he relies. This section does not enable him to produce the bond or prove its contents at a subsequent stage of the proceedings, otherwise than in accordance with the conditions prescribed by the Code of Civil Procedure.

Relevancy of facts forming part of same transaction.

6. Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places.

Illustrations.

(*a*) A is accused of the murder of B by beating him. Whatever was said or done by A or B or the by-standers at the beating, or so shortly before or after it as to form part of the transaction, is a relevant fact.

(*b*) A is accused of waging war against the Sovereign by taking part in an armed insurrection in which property is destroyed, troops are attacked, and gaols are broken open. The occurrence of these facts is relevant, as forming part of the general transaction, though A may not have been present at all of them.

(*c*) A sues B for a libel contained in a letter forming part of a correspondence. Letters between the parties relating to the subject out of which the libel arose, and forming part of the correspondence in which it is contained, are relevent facts, though they do not contain the libel itself.

(*d*) The question is, whether certain goods ordered from B were delivered to A. The goods were delivered to several intermediate persons successively. Each delivery is a relevant fact.

Facts which are the occasion, cause or effect of facts in issue.

7. Facts which are the occasion, cause or effect, immediate or otherwise, of relevant facts or facts, in issue, or which constitute the state of things under which they happened, or which afforded an opportunity for their occurrence or transaction, are relevant.

Illustrations.

(*a*) The question is, whether A robbed B.

The facts that, shortly before the robbery, B went to a fair with money in his possession, and that he showed it or mentioned the fact that he had it, to third persons, are relevant.

(*b*) The question is, whether A murdered B.

Marks on the ground, produced by a struggle at or near the place where the murder was committed, are relevant facts.

(*c*) The question is, whether A poisoned B.

The state of B's health before the symptoms ascribed to poison, and habits of B, known to A, which afforded an opportunity for the administration of poison, are relevant facts.

Motive, preparation and previous or subsequent conduct.

8. Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.

The conduct of any party, or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person an offence against whom is the subject of any proceeding, is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto.

Explanation 1.—The word "conduct" in this section does not include statements, unless those statements accompany and explain acts other than statements; but this explanation is not to affect the relevancy of statements under any other section of this Act.

Explanation 2.—When the conduct of any person is relevant, any statement made to him or in his presence and hearing, which affects such conduct, is relevant.

Illustrations.

(*a*) A is tried for the murder of B. The facts that A murdered C, that B knew that A had murdered C, and that B had tried to extort money from A by threatening to make his knowledge public, are relevant.

(*b*) A sues B upon a bond for the payment of money. B denies the making of the bond.

The fact that, at the time when the bond was alleged to be made, B required money for a particular purpose, is relevant.

(*c*) A is tried for the murder of B by poison.

The fact that, before the death of B, A procured poison similar to that which was administered to B, is relevant.

(*d*) The question is whether a certain document is the will of A.

The facts, that not long before the date of the alleged will A made inquiry into matters to which the provisions of the alleged will relate, that he consulted vakils in reference to making the will, and that he caused drafts of other wills to be prepared of which he did not approve are relevant.

(*e*) A is accused of a crime.

The facts that, either before or at the time of, or after the alleged crime, A provided evidence which would tend to give to the facts of the case an appearance favourable to himself, or that he destroyed or concealed evidence, or prevented the presence or procured the absence of persons who might have been witnesses, or suborned persons to give false evidence respecting it, are relevant.

(*f*) The question is whether A robbed B.

The facts that, after B was robbed, C said in A's presence—"the police are coming to look for the man who robbed B," and that immediately afterwards A ran away, are relevant.

(*g*) The question is whether A owes B rupees 10,000.

The facts that A asked C to lend him money, and that D said to C in A's presence and hearing—"I advise you not to trust A, for he owes B 10,000 rupees," and that A went away without making any answer are relevant facts.

(*h*) The question is, whether A committed a crime.

The fact that A absconded after receiving a letter warning him that inquiry was being made for the criminal, and the contents of the letter, are relevant.

(*i*) A is accused of a crime.

The facts that, after the commission of the alleged crime, he absconded, or was in possession of property or the proceeds of property acquired by the crime, or attempted to conceal things which were or might have been used in committing it, are relevant.

(*j*) The question is whether A was ravished.

The facts that, shortly after the alleged rape, she made a complaint relating to the crime, the circumstances under which, and the terms in which, the complaint was made, are relevant.

The fact that, without making a complaint, she said that she had been ravished is not relevant as conduct under this section, though it may be relevant as a dying declaration under Section 32, clause (1), or as corroborative evidence under Section 157.

(*k*) The question is, whether A was robbed.

The fact that, soon after the alleged robbery, he made a complaint relating to the offence the circumstances under which, and the terms in which, the complaint was made, are relevant.

The fact that he said he had been robbed without making any complaint, is not relevant, as conduct under this section, though it may be relevant as a dying declaration under Section 32, clause (1), or as corroborative evidence under Section 157.

Facts necessary to explain or introduce relevant facts.

9. Facts necessary to explain or introduce a fact in issue or relevant fact, or which support or rebut an inference suggested by a fact in issue or relevant fact, or which establish the identity of any thing or person whose identity is relevant, or fix the time or place at which any fact in issue or relevant fact happened or which show the relation of parties by whom any such fact was transacted, are relevant in so far as they are necessary for that purpose.

Illustrations.

(*a*) The question is, whether a given document is the will of A.

The state of A's property and of his family at the date of the alleged will may be relevant facts.

(*b*) A sues B for a libel imputing disgraceful conduct to A B affirms that the matter alleged to be libellous is true.

The position and relations of the parties at the time when the libel was published may be relevant facts as introductory to the facts in issue.

The particulars of a dispute between A and B about a matter unconnected with the alleged libel are irrelevant, though the fact that there was a dispute may be relevant if it affected the relations between A and B.

(*c*) A is accused of a crime.

The fact that, soon after the commission of the crime, A absconded from his house, is relevant under Section 8, as conduct subsequent to and affected by facts in issue.

The fact that at the time when he left home he had sudden and urgent business at the place to which he went, is relevant, as tending to explain the fact that he left home suddenly.

The details of the business on which he left are not relevant, except in so far as they are necessary to show that the business was sudden and urgent.

(*d*) A sues B for inducing C to break a contract of service made by him with A. C, on leaving A's service, says to A—" I am leaving you because B has made me a better offer.' This statement is a relevant fact as explanatory of C's conduct, which is relevant as a fact in issue.

(*e*) A, accused of theft, is seen to give the stolen property to B, who is seen to give it to A's wife. B says as he delivers it—"A says you are to hide this." B's statement is relevant as explanatory of a fact which is part of the transaction.

(*f*) A is tried for a riot and is proved to have marched at the head of a mob. The cries of the mob are relevant as explanatory of the nature of the transaction.

Things said or done by conspirator in reference to common design.

10. Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, anything said, done or written by any one of such persons in reference to their common intention, after the time when such intention was first entertained by any one of them, is a relevant fact as against each of the persons believed to be so conspiring, as well for the purpose of proving the existence of the conspiracy as for the purpose of showing that any such person was a party to it.

Illustrations.

Reasonable ground exists for believing that A has joined in a conspiracy to wage war against the Sovereign.

The facts that B procured arms in Europe for the purpose of the conspiracy, C collected money in Kottayam for a like object, D persuaded persons to join the conspiracy in Nagercoil, E published writings advocating the object in view at Trivandrum, and F transmitted from Quilon to G at Ernakulam the money which C had collected at Kottayam and the contents of a letter written by H giving an account of the conspiracy, are each relevant, both to prove the existence of the conspiracy, and to prove A's complicity in it, although he may have been ignorant of all of them, and although the persons by whom they were done were strangers to him, and although they may have taken place before he joined the conspiracy or after he left it.

When facts not otherwise relevant become relevant.

11. Facts not otherwise relevant are relevant—

(1) if they are inconsistent with any fact in issue or relevant fact;

(2) if by themselves or in connection with other facts they make the existence or non-existence of any fact in issue or relevant fact highly probable or improbable.

Illustrations.

(*a*) The question is whether A committed a crime at Kottayam on a certain day.

The fact that, on that day, A was at Nagercoil is relevant.

The fact that, near the time when the crime was committed, A was at a distance from the place where it was committed, which would

render it highly improbable, though not impossible, that he committed it, is relevant.

(*b*) The question is, whether A committed a crime.

The circumstances are such that the crime must have been committed either by A, B, C or D. Every fact which shows that the crime could have been committed by no one else and that it was not committed by either B, C or D, is relevant.

In suits for damages, facts tending to enable Court to determine amount are relevant.

12. In suits in which damages are claimed, any fact which will enable the Court to determine the amount of damages which ought to be awarded, is relevant.

Facts relevant when right or custom is in question.

13. Where the question is as to the existence of any right or custom, the following facts are relevant :—

(*a*) any transaction by which the right or custom in question was created, claimed, modified, recognised, asserted or denied, or which was inconsistent with its existence ;

(*b*) particular instances in which the right or custom was claimed, recognised or exercised, or in which its exercise was disputed, asserted or departed from.

Illustration.

The question is whether A has a right to a fishery. A deed conferring the fishery on A's ancestors, a mortgage of the fishery by A's father, a subsequent grant of the fishery by A's father, irreconcilable with the mortgage, particular instances in which A's father exercised the right, or in which the exercise of the right was stopped by A's neighbours are relevant facts.

Facts showing existence of state of mind, or of body or bodily feeling.

14. Facts showing the existence of any state of mind, such as intention, knowledge, good faith, negligence, rashness, ill-will or good will towards any particular person, or showing the existence of any state of body or bodily feeling, are relevant, when the existence of any such state of mind or body or bodily feeling is in issue or relevant.

Explanations :—1.—A fact relevant as showing the existence of a relevant state of mind must show that the state of mind exists, not generally, but in reference to the particular matter in question.

Explanation 2.—But where, upon the trial of a person accused of an offence, the previous commission by the accused of an offence is relevant within the meaning of this section, the previous conviction of such person shall also be a relevant fact.

Illustrations.

(*a*) A is accused of receiving stolen goods knowing them to be stolen. It is proved that he was in possession of a particular stolen article.

The fact that, at the same time, he was in possession of many other stolen articles is relevant, as tending to show that he knew each and all of the articles of which he was in possession to be stolen.

(*b*) A is accused of fraudulently delivering to another person a counterfeit coin which, at the time when he delivered it, he knew to be counterfeit.

The fact that, at the time of its delivery, A was possessed of a number of other pieces of counterfeit coin is relevant.

The fact that A had been previously convicted of delivering to another person as genuine a counterfeit coin knowing it to be counterfeit is relevant.

(*c*) A sues B for damage done by a dog of B's, which B knew to be ferocious.

The facts that the dog had previously bitten X, Y and Z, and that they had made complaints to B, are relevant.

(*d*) The question is, whether A, the acceptor of a bill of exchange, knew that the name of the payee was fictitious.

The fact that A had accepted other bills drawn in the same manner before they could have been transmitted to him by the payee if the payee had been a real person, is relevant as showing that A knew that the payee was a fictitious person.

(*e*) A is accused of defaming B by publishing an imputation intended to harm the reputation of B.

The fact of previous publications by A respecting B, showing ill-will on the part of A towards B is relevant, as proving A's intention to harm B's reputation by the particular publication in question.

The facts that there was no previous quarrel between A and B, and that A repeated the matter complained of as he heard it, are relevant, as showing that A did not intend to harm the reputation of B.

(*f*) A is sued by B for fraudulently representing to B that C was solvent, whereby B, being induced to trust C, who was insolvent, suffered loss.

The fact that at the time when A represented C to be solvent, C was supposed to be solvent by his neighbours and by persons dealing with him, is relevant, as showing that A made the representation in good faith.

(*g*) A is sued by B for the price of work done by B, upon a house of which A is owner, by the order of C, a contractor.

A's defence is that B's contract was with C.

The fact that A paid C for the work in question is relevant, as proving that A did, in good faith, make over to C the management of the work in question, so that C was in a position to contract with B on C's own account, and not as agent for A.

(*h*) A is accused of the dishonest misappropriation of property which he had found, and the question is whether, when he appropriated it, he believed in good faith that the real owner could not be found.

The fact that public notice of the loss of the property had been given in the place where A was, is relevant, as showing that A did not in good faith believe that the real owner of the property could not be found.

The fact that A knew, or had reason to believe, that the notice was given fraudulently by C, who had heard of the loss of the property and wished to set up a false claim to it, is relevant, as showing that the fact that A knew of the notice did not disprove A's good faith.

(*i*) A is charged with shooting at B with intent to kill him. In order to show A's intent the fact of A's having previously shot at B may be proved.

(*j*) A is charged with sending threatening letters to B. Threatening letters previously sent by A to B may be proved, as showing the intention of the letters.

(*k*) The question is, whether A has been guilty of cruelty towards B, his wife.

Expressions of their feeling towards each other shortly before or after the alleged cruelty are relevant facts.

(*l*) The question is whether A's death was caused by poison.

Statements made by A during his illness as to his symptoms are relevant facts.

(*m*) The question is, what was the state of A's health at the time an assurance on his life was effected.

Statements made by A as to the state of his health at or near the time in question are relevant facts.

(*n*) A sues B for negligence in providing him with a carriage for hire not reasonably fit for use, whereby A was injured.

The fact that B's attention was drawn on other occasions to the defect of that particular carriage is relevant.

The fact that B was habitually negligent about the carriages which he let to hire is irrelevant.

(*o*) A is tried for the murder of B by intentionally shooting him dead.

The fact that A on other occasions shot at B is relevant as showing his intention to shoot B.

The fact that A was in the habit of shooting at people with intent to murder them is irrelevant.

(*p*) A is tried for a crime.

The fact that he said something indicating an intention to commit that particular crime is relevant.

The fact that he said something indicating a general disposition to commit crimes of that class is irrelevant.

Facts bearing on question whether act was accidental or intentional.

15. When there is a question whether an act was accidental or intentional, or done with a particular knowledge or intention, the fact that such act formed part of a series of similar occurrences, in each of which the person doing the act was concerned, is relevant.

Illustrations.

(*a*) A is accused of burning down his house in order to obtain money for which it is insured.

The facts that A lived in several houses successively each of which he insured, in each of which a fire occurred, and after each of which fires A received payment from a different insurance office, are relevant, as tending to show that the fires were not accidental.

(*b*) A is employed to receive money from the debtors of B. It is A's duty to make entries in a book showing the amounts received by him. He makes an entry showing that on a particular occasion he received less than he really did receive.

The question is, whether this false entry was accidental or intentional.

The facts that other entries made by A in the same book are false, and that the false entry is in each case in favour of A, are relevant.

(*c*) A is accused of fraudulently delivering to B a counterfeit rupee.

The question is, whether the delivery of the rupee was accidental.

The facts that, soon before or soon after the delivery to B, A delivered counterfeit rupees to C, D and E are relevant, as showing that the delivery to B was not accidental.

Existence of course of business when relevant.

16. When there is a question whether a particular act was done, the existence of any course of business, according to which it naturally would have been done, is a relevant fact.

Illustrations.

(*a*) The question is, whether a particular letter was despatched. The facts that it was the ordinary course of business of all letters put in a certain place to be carried to the post, and that that particular letter was put in that place are relevant.

(*b*) The question is, whether a particular letter reached A. The facts that it was posted in due course, and was not returned through the Dead Letter Office, are relevant.

Admissions.

Admission defined.

17. An admission is a statement, oral or documentary, which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances, hereinafter mentioned.

Admission by party to proceeding or his agent.

18. Statements made by a party to the proceeding, or by an agent to any such party, whom the Court regards, under the circumstances of the case, as expressly or impliedly authorised by him to make them, are admissions.

By suitor in representative character.

Statements made by parties to suits suing or sued in representative character, are not admissions unless they were made while the party making them held that character. Statements made by–

By party interested in subject matter.

(1) persons who have any proprietary or pecuniary interest in the subject matter of the proceeding and who make the statement in their character of persons so interested, or

By persons from whom interest derived.

(2) persons from whom the parties to the suit have derived their interest in the subject matter of the suit,

are admissions, if they are made during the continuance of the interest of the persons making the statements.

Admissions by persons whose position must be proved as against party to suit.

19. Statements made by persons whose position or liability it is necessary to prove as against any party to the suit, are admissions, if such statements would be relevant as against such persons in relation to such position or liability in a suit brought by or against them, and if they are made whilst the person making them occupies such position or is subject to such liability.

Illustration.

A undertakes to collect rents for B.

B sues A for not collecting rent due from C to B.

A denies that rent was due from C to B.

A statement by C that he owed B rent is an admission, and is a relevant fact as against A, if A denies that C did owe rent to B.

Admissions by persons expressly referred to by party to suit.

20. Statements made by persons to whom a party to the suit has expressly referred for information in reference to a matter in dispute are admissions.

Illustration.

The question is whether a horse sold by A to B is sound.

A says to B—"Go and ask C ; C knows all about it". C's statement is an admission.

Proof of admissions against persons making them, and by or on their behalf.

21. Admissions are relevant and may be proved as against the person who makes them, or his representative in interest ; but they cannot be proved by or on behalf of the person who makes them or by his representative in interest, except in the following cases :

(1) An admission may be proved by or on behalf of the person making it, when it is of such a nature that, if the person making it were dead, it would be relevant as between third persons under Section 32

(2) An admission may be proved by or on behalf of the person making it, when it consists of a statement of the existence of any state of mind or body, relevant or in issue, made at or about the time when such state of mind or body existed, and is accompanied by conduct rendering its falsehood improbable.

(3) An admission may be proved by or on behalf of the person making it, if it is relevant otherwise than as an admission.

Illustrations.

(*a*) The question between A and B is, whether a certain deed is or is not forged. A affirms that it is genuine, B that it is forged.

A may prove a statement by B that the deed is genuine, and B may prove a statement by A that the deed is forged ; but A cannot prove a statement by himself that the deed is genuine, nor can B prove a statement by himself that the deed is forged.

(*b*) A, the captain of a ship, is tried for casting her away.

Evidence is given to show that the ship was taken out of her proper course.

A produces a book kept by him in the ordinary course of his business showing observations alleged to have been taken by him from day to day, and indicating that the ship was not taken out of her proper course. A may prove these statements, because they would be admissible between third parties, if he were dead, under Section 32, clause (2).

(*c*) A is accused of a crime committed by him at Parur.

He produces a letter written by himself and dated at Nagercoil on that day, and bearing the Nagercoil post-mark of that day.

The statement in the date of the letter is admissible, because if A were dead, it would be admissible under Section 32, clause (2).

(*d*) A is accused of receiving stolen goods knowing them to be stolen.

He offers to prove that he refused to sell them below their value.

A may prove these statements, though they are admissions, because they are explanatory of conduct influenced by facts in issue.

(*e*) A is accused of fraudulently having in his possession counterfeit coin which he knew to be counterfeit.

He offers to prove that he asked a skilful person to examine the coin as he doubted whether it was counterfeit or not, and that that person did examine it and told him it was genuine.

A may prove these facts for the reasons stated in the last preceding illustration.

When oral admissions as to contents of documents are relevant.

22. Oral admissions as to the contents of a document are not relevant, unless and until the party proposing to prove them shows that he is entitled to give secondary evidence of the contents of such document under the rules hereinafter contained, or unless the genuineness of a document produced is in question.

Admissions in civil cases when relevant.

23. In civil cases no admission is relevant, if it is made either upon an express condition that evidence of it is not to be given, or under circumstances from which the Court can infer that the parties agreed together that evidence of it should not be given.

Explanation. Nothing in this section shall be taken to exempt any advocate, pleader, attorney or vakil from giving evidence of any, matter of which he may be compelled to give evidence under Section 126.

24. A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat or promise having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

Confession caused by inducement, threat or promise, when irrelevant in criminal proceeding.

25. No confession made to a police-officer shall be proved as against a person accused of any offence,

Confession to police officer not to be proved.

26. No confession made by any person whilst he is in the custody of a police officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person.

Confession by accused while in custody of police not to be proved against him.

27. Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.

How much of information received from accused may be proved.

28. If such a confession as is referred to in Section 24 is made after the impression caused by any such inducement, threat or promise has, in the opinion of the Court, been fully removed, it is relevant.

Confession made after removal of impression caused by inducement, threat or promise, relevant.

29. If such a confession is otherwise relevant, it does not become irrelevant merely because it was made under a promise of secrecy, or in consequence of a deception practised on the accused person for the purpose of obtaining it, or when he was drunk, or because it was made in answer to questions which he need not have answered, whatever may have been the form of those questions, or because he was not warned that he was not bound to make such confession, and that evidence of it might be given against him.

Confession otherwise relevant not to become irrelevant because of promise of secrecy, etc.

30. When more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the Court may take into consideration such confession as against such other person as well as against the person who makes such confession.

Consideration of proved confession affecting person making it and others jointly under trial for same offence.

Explanation :—" Offence " as used in this section, includes the abatement of, or attempt to commit, the offence.

Illustrations.

(a) A and B are jointly tried for the murder of C. It is proved that A said "B and I murdered C." The Court may consider the effect of this confession as against B.

(b) A is on his trial for the murder of C. There is evidence to show that C was murdered by A and B, and that B said— "A and I murdered C."

This statement may not be taken into consideration by the Court against A as B is not being jointly tried.

Admissions not conclusive proof, but may estop.

31. Admissions are not conclusive proof of the matters admitted, but they may operate as estoppels under the provisions hereinafter contained.

Statements by persons who cannot be called as Witnesses.

Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant.

32. Statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which under the circumstances of the case appears to the Court unreasonable, are themselves relevant facts in the following cases :

When it relates to cause of death,

(1) When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question.

Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.

or is made in course of business ;

(2) When the statement was made by such person in the ordinary course of business, and in particular when it consists of any entry or memorandum made by him in books kept in the ordinary course of business, or in the discharge of professional duty ; or of an acknowledgment written or signed by him of the receipt of money, goods, securities or property of any kind ; or of a document used in commerce written or signed by him, or of the date of a letter or other document usually dated, written or signed by him.

(3) When the statement is against the pecuniary or proprietory interest of the person making it, or when, if true, it would expose him or would have exposed him to a criminal prosecution or to a suit for damages.

or against interest of maker;

(4) When the statement gives the opinion of any such person, as to the existence of any public right or custom or matter of public or general interest, of the existence of which, if it existed, he would have been likely to be aware, and when such statement was made before any controversy as to such right, custom or matter has arisen.

or gives opinion as to public right or custom or matters of general interest;

(5) When the statement relates to the existence of any relationship by blood, marriage or adoption between persons as to whose relationship by blood, marriage or adoption the person making the statement had special means of knowledge, and when the statement was made before the question in dispute was raised.

or relates to existence of relationship;

(6) When the statement relates to the existence of any relationship by blood, marriage or adoption between persons deceased, and is made in any will or deed relating to the affairs of the family to which any such deceased person belonged, or in any family pedigree, or upon any tombstone, family portrait or other thing on which such statements are usually made, and when such statement was made before the question in dispute was raised.

or is made in will or deed relating to family affairs;

(7) When the statement is contained in any deed, will or other document which relates to any such transaction as is mentioned in section 13, clause (a).

or in document relating to transaction mentioned in section 13, clause (a);

(8) When the statement was made by a number of persons, and expressed feelings or impressions on their part relevant to the matter in question.

or is made by several persons and expresses feelings relevant to matter in question.

Illustrations.

(*a*) The question is, whether A was murdered by B; or

A dies of injuries received in a transaction in the course of which she was ravished. The question is whether she was ravished by B; or the question is whether A was killed by B under such circumstances that a suit would lie against B by A's widow.

Statements made by A as to the cause of his or her death, referring respectively to the murder, the rape and the actionable wrong under consideration are relevant facts.

(*b*) The question is as to the date of A's birth.

An entry in the diary of a deceased surgeon regularly kept in the course of business, stating that, on a given day he attended A's mother and delivered her of a son, is a relevant fact.

(*c*) The question is, whether A was in Kottayam on a given day.

A statement in the diary of a deceased solicitor, regularly kept in the course of business, that on a given day the solicitor attended A at a place mentioned, in Kottayam for the purpose of conferring with him upon specified business, is a relevant fact.

(*d*) The question is, whether a ship sailed from Alleppey Port on a given day.

A letter written by a deceased member of a merchant's firm by which she was chartered to their correspondents in London, to whom the cargo was consigned, stating that the ship sailed on a given day from Alleppey Port, is a relevant fact.

(*e*) The question is, whether rent was paid to A for certain land.

A letter from A's deceased agent to A saying that he had received the rent on A's account and held it at A's orders is a relevant fact.

(*f*) The question is, whether A and B were legally married.

The statement of a deceased clergyman that he married them under such circumstances that the celebration would be a crime, is relevant.

(*g*) The question is, whether A, a person who cannot be found, wrote a letter on a certain day. The fact that a letter written by him is dated on that day is relevant.

(*h*) The question is, what was the cause of the wreck of a ship.

A protest made by the Captain, whose attendance cannot be procured, is a relevant fact.

(*i*) The question is, whether a given road is a public way.

A statement by A, a deceased headmen of the Village, that the road was public, is a relevant fact.

(*j*) The question is, what was the price of grain on a certain day in a particular market. A statement of the price, made by a deceased banya in the ordinary course of his business, is a relevant fact.

(*k*) The question is, whether A, who is dead, was the father of B.

A statement by A that B was his son, is a relevant fact.

(*l*) The question is, what was the date of the birth of A,

A letter from A's deceased father to a friend, announcing the birth of A on a given day, is a relevant fact.

(*m*) The question is, whether, and when, A and B were married.

An entry in a memorandum book by C, the deceased father of B of his daughter's marriage with A on a given date, is a relevant fact.

(*n*) A sues B for a libel expressed in a painted caricature exposed in a shop window. The question is as to the similarity of the caricature and its libellous character. The remarks of a crowd of spectators on these points may be proved.

Relevancy of certain evidence for proving, in subsequent proceeding, the truth of facts therein stated.

33. Evidence given by a witness in a judicial proceeding or before any person authorised by law to take it, is relevant for the purpose of proving, in a subsequent judicial proceeding, or in a later stage of the same judicial proceeding, the truth of the facts which it states when the witness is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or if his presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the Court considers unreasonable ;

Provided—

that the proceeding was between the same parties or their representatives in interest ;

that the adverse party in the first proceeding had the right and opportunity to cross-examine ;

that the questions in issue were substantially the same in the first as in the second proceeding.

Explanation.—A criminal trial or inquiry shall be deemed to be a proceeding between the prosecutor and the accused within the meaning of this section.

Statements made under Special Circumstances.

Entries in books of account when relevant.

34. Entries in books of account, regularly kept in the course of business, are relevant whenever they refer to a matter into which the Court has to inquire, but such statements shall not alone be sufficient evidence to charge any person with liability.

Illustration.

A sues B for Rs. 1,000 and shows entries in his account books showing B to be indebted to him to this amount. The entries are relevant, but are not sufficent, without other evidence, to prove the debt.

35. An entry in any public or other official book, register or record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person performance of a duty specially enjoined by the law of the country in which such book, register or record is kept, is itself a relevant fact.

Relevancy of entry in public record made in performance of duty.

36. Statements of facts in issue or relevent facts, made in published maps or charts generally offered for public sale, or in maps or plans made under the authority of Our Government, as to matters usually represented or stated in such maps, charts or plans, are themselves relevant facts.

Relevancy of statements in maps, charts and plans.

37. When the Court has to form an opinion as to the existence of any fact of a public nature, any statement of it, made in a recital contained in any Proclamation issued by Us or any Act passed by Us or under Our authority or in a notification of Our Government appearing in Our Government Gazette or in any Act of Legislature in the United Kingdom or British India or in a notification of the Government of India appearing in the Gazette of India or in the Gazette of any Provincial Government or in any printed paper purporting to be the London Gazette, or the Government Gazette of any colony or possession of His Majesty, the King Emperor of India, is a relevant fact.

Relevancy of statement as to fact of public nature contained in certain Acts or notification.

38. When the Court has to form an opinion as to a law of any country, any statement of such law contained in a book purporting to be printed or published under the authority of the Government of such country and to contain any such law, and any report of a ruling of the Courts of such country contained in a book purporting to be a report of such rulings, is relevant.

Relevancy of statements as to any law contained in law books.

How much of a statement is to be proved.

39. When any statement of which evidence is given forms part of longer statement, or of a conversation or part of an isolated document, or is contained in a document which forms part of a book, or of a connected series of letters or papers, evidence shall be given of so much and no more of the statement, conversation, document, book or series of letters or papers as the Court considers necessary in that particular case to the full understanding of the nature and effect of the statement, and of the circumstances under which it was made.

What evidence to be given when statement forms part of a conversation, document, book or series of letters or papers.

Judgments of Courts of Justice when relevant.

Previous judgments relevant to bar a second suit or trial.

40. The existence of any Judgment, order or decree which by law prevents any Court from taking cognizance of a suit or holding a trial, is a relevant fact when the question is whether such Court ought to take cognizance of such suit or to hold such trial.

Relevancy of certain judgments in probate, etc., jurisdiction.

41. A final judgment, order or decree of a competent Court, in the exercise of probate, matrimonial, or insolvency jurisdiction, which confers upon or takes away from any person any legal character or which declares any person to be entitled to any such character, or to be entitled to any specific thing, not as against any specified person but absolutely, is relevant when the existence of any such legal character, or the title of any such person to any such thing, is relevant.

Such judgment, order or decree is conclusive proof—

that any legal character which it confers accrued at the time when such judgment, order or decree came into operation;

that any legal character, to which it declares any such person to be entitled, accrued to that person at the time when such judgment, order or decree declares it to have accrued to that person;

that any legal character which it takes away from any such person ceased at the time from which such judgment, order or decree, declared that it had ceased or should cease;

and that anything to which it declares any person to be so entitled was the property of that person at the time from which such judgment, order or decree, declares that it had been or should be his property.

Relevancy and effect of judgments, orders or decrees, other than those mentioned in Section 41.

42. Judgments, orders or decrees other than those mentioned in Section 41 are relevant if they relate to matters of a public nature* relevant to the enquiry; but such judgments, orders or decrees are not conclusive proof of that which they state.

Illustration.

A sues B for trespass on his land. B alleges the existence of a public right of way over the land, which A denies.

The existence of a decree in favour of the defendant, in a suit by A against C for a trespass on the same land in which C alleged the existence of the same right of way, is relevant, but it is not conclusive proof that the right of way exists.

Judgments &c., other than those mentioned in Sections 40 to 42 when relevant.

43. Judgments, orders or decrees, other than those mentioned in Sections 40, 41 and 42 are irrelevant, unless the existence of such judgment, order or decree is a fact in issue or is relevant under some other provision of this Act.

Illustrations.

(*a*) A and B separately sue C for a libel which reflects upon each of them. C in each case says that the matter alleged to be libellous is true, and the circumstances are such that it is probably true in each case, or in neither.

A obtains a decree against C for damages on the ground that C failed to make out his justification. The fact is irrelevant as between B and C.

(*b*) A prosecutes B for adultery with C, A's wife.

B denies that C is A's wife, but the court convicts B of adultery.

Afterwards, C is prosecuted for bigamy in marrying B during A's lifetime. C says that she never was A's wife.

The judgment against B is irrelevant as against C.

(*c*) A prosecutes B for stealing a cow from him. B is convicted.

A afterwards sues C for the cow, which B had sold to him before his conviction. As between A and C, the judgment against B is irrelevant.

(*d*) A has obtained a decree for the possession of land against B. C, B's son, murders A in consequence.

The existence of the judgment is relevant, as showing motive for a crime.

(e) A is charged with theft and with having been previously convicted of theft. The previous conviction is relevant as a fact in issue.

(*f*) A is tried for the murder of B. The fact that B prosecuted A for libel and that A was convicted and sentenced is relevant under Section 8 as showing the motive for the fact in issue.

*Fraud or collusion in obtaining judgment, or incompetency of Court, may be proved.

44. Any party to a suit or other proceeding, may show that any judgment, order or decree which is relevant under Section 40, 41 or 42, and which has been proved by the adverse party, was delivered by a Court not competent to deliver it, or was obtained by fraud or collusion.

Opinions of third persons, when relevant.

Opinions of experts.

45. When the court has to form an opinion upon a point of foreign law, or of science or art, or as to identity of handwriting or finger impressions, the opinions upon that point of persons specially skilled in such foreign law, science or art, or in questions as to identity of handwriting or finger impressions are relevant facts.

Such persons are called experts.

Illustrations.

(*a*) The question is, whether the death of A was caused by poison.

The opinion of experts as to the symptoms produced by the poison by which A is supposed to have died, are relevant.

(*b*) The question is, whether A, at the time of doing a certain act, was, by reason of unsoundness of mind, incapable of knowing the nature of the act, or that he was doing what was either wrong or contrary to law.

The opinions of experts upon the question whether the symptoms exhibited by A commonly show unsoundness of mind, and whether such unsoundness of mind usually renders persons incapable of knowing the nature of the acts which they do, or of knowing that what they do is either wrong or contrary to law, are relevant.

(*c*) The question is, whether a certain document was written by A. Another document is produced which is proved or admitted to have been written by A

The opinions of experts on the question whether the two documents were written by the same person or by different persons, are relevant.

Facts bearing upon opinions of experts.

46. Facts, not otherwise relevant, are relevant if they support or are inconsistent with the opinions of experts, when such opinions are relevant.

Illustrations.

(*a*) The question is, whether A was poisoned by a certain poison.

The fact that other persons, who were poisoned by that poison, exhibited certain symptoms which experts affirm or deny to be the symptoms of that person, is relevant.

(*b*) The question is, whether an obstruction to a harbour is caused by a certain sea-wall.

The fact that other harbours similarly situated in other respects, but where there were no such sea-walls, began to be obstructed at about the same time, is relevent.

Opinion as to handwriting when relevant.

47. When the court has to form an opinion as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the person by whom it is supposed to be written or signed that it was or was not written or signed by that person, is a relevant fact.

Explanation.--A person is said to be acquainted with the hand-writing of another person when he has seen that person write, or when he has received documents purporting to be written by that person in answer to documents written by himself or under his authority and addressed to that person, or when, in the ordinary course of business, documents purporting to be written by that person have been habitually submitted to him.

Illustration.

The question is, whether a given letter is in the hand-writing of A, a merchant in London.

B is a merchant in Alleppey, who has written letters addressed to A and received letters purporting to be written by him. C is B's clerk, whose duty it was to examine and file B's correspondence. D is B's broker, to whom B habitually submitted the letters purporting to be written by A for the purpose of advising with him thereon.

The opinions of B, C and D on the question whether the letter is in the handwriting of A are relevant, though neither B, C or D ever saw A write.

Opinion as to existence of right of custom, when relevant.

48. When the Court has to form an opinion as to the existence of any general custom or right, the opinions, as to the existence of such custom or right, of persons who would be likely to know of its existence if it existed, are relevant.

Explanation.—The expression "general custom or right" includes customs or rights common to any considerable class of persons.

Illustration.

The right of the villagers of a particular village to use the water of a particular well is a general right within the meaning of this section.

Opinion as to usages, tenets, etc., when relevant.

49 When the Court has to form an opinion as to—

the usages and tenets of any body of men or family,

the constitution and government of any religious or charitable foundation, or

the meaning of words or terms used in particular districts or by particular classes of people,

the opinions of persons having special means of knowledge thereon, are relevant facts.

Opinion on relationship when relevant.

50. When the Court has to form an opinion as to the relationship of one person to another, the opinion, expressed by conduct, as to the existence of such relationship of any person who, as a member of the family or otherwise, has special means of knowledge on the subject, is a relevant fact:

Provided that such opinion shall not be sufficient to prove a marriage in proceedings for divorce under any enactment in force providing for divorce Act in prosecutions under Sections 497, 498, 500 or 501 of the Travancore Penal Code.

Illustrations.

(*a*) The question is, whether A and B were married.

The fact that they were usually received and treated by their friends as husband and wife, is relevant.

(*b*) The question is, whether A was the legitimate son of B. The fact that A was always treated as such by members of the family, is relevant.

Grounds of opinion when relevant.

51. Whenever the opinion of any living person is relevant, the grounds on which such opinion is based are also relevant.

Illustration.

An expert may give an account of experiments performed by him for the purpose of forming his opinion.

Character when relevant.

In civil cases character to prove conduct imputed irrelevant.

52. In civil cases the fact that the character of any person concerned is such as to render probable or improbable any conduct imputed to him is irrelevant, except in so far as such character appears from facts otherwise relevant.

In criminal cases previous good character relevant.

53. In criminal proceedings the fact that the person accused is of a good character is relevant.

Previous bad character not relevant, except in reply.

54. In criminal proceedings the fact that the accused person has a bad character is irrelevant, unless evidence has been given that he has a good character, in which case it becomes relevant.

Explanation 1.—This section does not apply to cases in which the bad character of any person is itself a fact in issue.

Explanation 2.—A previous conviction is relevant as evidence of bad character.

Character as affecting damages.

55. In civil cases the fact that the character of any person is such as to affect the amount of damages which he ought to receive, is relevant.

Explanation.—In Sections 52, 53, 54 and 55 the word "character" includes both reputation and disposition; but, except as provided in Section 54, evidence may be given only of general reputation and general disposition, and not of particular acts by which reputation or disposition were shown.

PART II.
On Proof.
CHAPTER III.

Facts which need not be proved.

56. No fact of which the Court will take judicial notice need be proved.

Fact judicially noticeable need not be proved.

57. The Court shall take judicial notice of the following facts;—

Facts of which Court must take judicial notice.

(1) all laws or rules having the force of law now or heretofore in force or hereafter to be in force in any part of Travancore;

(2) the course of proceedings of the Houses of Legislature in Travancore for the purposes of making lands;

(3) the accession and the sign manual of His Highness the Maharaja of Travancore;

(4) the seals of all the courts in Travancore and all seals which any person is authorised to use by any Act or rule having the force of law in Travancore;

(5) the accession to office, names, titles, functions and signatures of the persons filling for the time being any public office in any part of Travancore, if the fact of their appointment to such office is notified in Our Government Gazette;

(6) the divisions of time, the geographical divisions of the world and public festivals, feasts and holidays notified in Our Government Gazette;

(7) all Acts passed or hereafter to be passed by the Legislature of the United Kingdom or British India;

(8) the course of proceeding of the Legislature of the United Kingdom and British India for the purposes of making Laws and Regulations under any law for the time being relating thereto;

(9) Articles of War for the Travancore State Forces, for His Majesty's Army, Navy or Air Force;

(10) the accession and the sign manual of the Sovereign for the ime being of the United Kingdom;

(11) the seals of all the courts of British India and of all courts out of British India established by the authority of the Governor General in Council;

(12) the seals of Courts of Admiralty and Maritime Jurisdiction and of Notaries Public and all seals which any person is authorised to use by any Act or Regulation having the force of law in British India;

(13) the existence, title and national flag of every State or Sovereign recognised by the British Crown;

(14) the accession to office, names, titles, functions and signatures of the persons filling for the time being any public office in any part of British India if the fact of their appointment to such office is notified in the Gazette of India or in the official Gazette of any Provincial Government;

(15) the territories under the dominion of the British Crown;

(16) the commencement, continuance and determination of hostilities between the British Crown and any other State or body of persons;

(17) the names of the members and officers of the Court and of their deputies and subordinate officers and assistants and also of all officers acting in execution of its process and of all advocates, attorneys, proctors, vakils, pleaders and other persons authorised by law to appear or act before it;

(18) the rule of the road on land or at sea.

In all these cases and also on all matters of public history, literature, science or art, the Court may resort for its aid to appropriate books or documents of reference.

If the Court is called upon by any person to take judicial notice of any fact, it may refuse to do so unless and until such person produces any such book or document as it may consider necessary to enable it to do so.

Facts admitted need not be proved.

58. No fact need be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing or which, before the hearing, they agreed to admit by any writing under their hands, or which by any rule or pleading in force at the time they are deemed to have admitted by their pleadings:

Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.

CHAPTER IV.

Of Oral Evidence.

Proof of facts by oral evidence.

59. All facts, except the contents of documents, may be proved by oral evidence.

60. Oral evidence must, in all cases whatever, be direct: that is to say—

Oral evidence must be direct.

If it refers to a fact which could be seen, it must be the evidence of a witness who says he saw it;

If it refers to a fact which could be heard, it must be the evidence of a witness who says he heard it;

If it refers to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived it by that sense or in that manner;

If it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those grounds:

Provided that the opinions of experts expressed in any treatise commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatises if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the Court regards as unreasonable:

Provided also that, if oral evidence refers to the existence or condition of any material thing other than a document, the Court may, if it thinks fit, require the production of such material thing for its inspection.

CHAPTER V.

Of Documentary Evidence.

61. The contents of documents may be proved either by primary or by secondary evidence.

Proof of contents of documents.

62. Primary evidence means the document itself produced for the inspection of the Court.

Primary evidence.

Explanation 1.—Where a document is executed in several parts, each part is primary evidence of the document.

Where a document is executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart is primary evidence as against the parties executing it.

Explanation 2.—Where a number of documents are all made by one uniform process, as in the case of printing, lithography or photography, each is primary evidence of the contents of the rest; but, where they are all copies of a common original, they are not primary evidence of the contents of the original.

Illustrations.

A person is shown to have been in possession of a number of placards, all printed at one time from one original. Any one of the

placards is primary evidence of the contents of any other, but no one of them is primary evidence of the contents of the original.

Secondary evidence. 63. Secondary evidence means and includes—

(1) certified copies given under the provisions hereinafter contained;

(2) copies made from the original by mechanical processes which in themselves insure the accuracy of the copy, and copies compared with such copies;

(3) copies made from or compared with the original;

(4) counterparts of documents as against the parties who did not execute them;

(5) oral accounts of the contents of a document given by some person who has himself seen it.

Illustrations.

(*a*) A photograph of an original is secondary evidence of its contents, though the two have not been compared, if it is proved that the thing photographed was the original.

(*b*) A copy, compared with a copy of a letter made by a copying machine is secondary evidence of the contents of the letter, if it is shown that the copy made by the copying machine was made from the original.

(*c*) A copy transcribed from a copy, but afterwards compared with the original is secondary evidence; but the copy not so compared is not secondary evidence of the original, although the copy from which it was transcribed was compared with the original.

(*d*) Neither an oral account of a copy compared with the original, nor an oral account of a photograph or machine copy of the original, is secondary evidence of the original.

64. Documents must be proved by primary evidence except in the cases hereinafter mentioned.

Proof of documents by primary evidence.

65. Secondary evidence may be given of the existence, condition or contents of a document in the following cases:—

Cases in which secondary evidence relating to documents may be given.

(*a*) when the original is shown or appears to be in the possession or power—

of the person against whom the document is sought to be proved, or of any person out of reach of, or not subject to, the process of the Court, or

of any person legally bound to produce it, and when, after the notice mentioned in Section 66, such person does not produce it;

(*b*) when the existence, condition or contents of the original have been proved to be admitted in writing by the person against whom it is proved or by his representative in interest;

(*c*) when the original has been destroyed or lost, or when the party offering evidence of its contents cannot, for any other reason not arising from his own default or neglect, produce it in reasonable time;

(*d*) when the original is of such a nature as not to be easily movable;

(*e*) when the original is a public document within the meaning of Section 74;

(*f*) when the original is a document of which a certified copy is permitted by this Act, or by any other law in force in Travancore, to be given in evidence;

(*g*) when the originals consist of numerous accounts or other documents which cannot conveniently be examined in Court, and the fact to be proved is the general result of the whole collection.

In cases (*a*), (*c*) and (*d*), any secondary evidence of the contents of the document is admissible.

In cases (*a*), the written admission is admissible.

In case (*e*) or (*f*), a certified copy of the document, but no other kind of secondary evidence, is admissible.

In case (*g*), evidence may be given as to the general result of the documents by any person who has examined them, and who is skilled in the examination of such documents.

Rules as to notice to produce.

66. Secondary evidence of the contents of the documents referred to in Section 65, clause (*a*), shall not be given unless the party proposing to give such secondary evidence has previously given to the party in whose possession or power the document is, or to his attorney, advocate or pleader, such notice to produce it as is prescribed by law; and if no notice is prescribed by law, then such notice as the Court considers reasonable under the circumstances of the case:

Provided that such notice shall not be required in order to render secondary evidence admissible in any of the following cases, or in any other case in which the Court thinks fit to dispense with it:—

(1) when the document to be proved is itself a notice;

(2) when, from the nature of the case, the adverse party must know that he will be required to produce it;

(3) when it appears or is proved that the adverse party has obtained possession of the original by fraud or force;

(4) when the adverse party or his agent has the original in Court;

(5) when the adverse party or his agent has admitted the loss of the document;

(6) when the person in possession of the document is out of reach of, or not subject to, the process of the Court.

Proof of signature and handwriting of person alleged to have signed or written document produced.

67. If a document is alleged to be signed or to have been written wholly or in part by any person, the signature or the hand writing of so much of the document as is alleged to be in that person's handwriting must be proved to be in his handwriting.

Proof of execution of document required by law to be attested.

68. If a document is required by law to be attested, it shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive, and subject to the process of the Court and capable of giving evidence:

Provided that it shall not be necessary to call an attesting witness in proof of the execution of any document, not being a will, which has been registered in accordance with the provisions of the Travancore Registration Act, unless its execution by the person by whom it purports to have been executed is specifically denied.

Proof where no attesting witness found.

69. If no such attesting witness can be found, or if the document purports to have been executed in the United Kingdom, it must be proved that the attestation of one attesting witness at least is in his handwriting, and that the signature of the person executing the document is in the handwriting of that person.

Admisson of execution by party to attested document.

70. The admission of a party to an attested document of its execution by himself shall be sufficient proof of its execution as against him, though it be a document required by law to be attested

Proof when attesting witness denies the execution.

71. If the attesting witness denies or does not recollect the execution of the document, its execution may be proved by other evidence.

Proof of document not required by law to be attested.

72. An attested document not required by law to be attested may be proved as if it was unattested.

73. In order to ascertain whether a signature, writing or seal is that of the person by whom it purports to have been written or made, any signature, writing or seal admitted or proved to the satisfaction of the Court to have been written or made by that person may be compared with the one which is to be proved, although that signature, writing or seal has not been produced or proved for any other purpose.

Comparison of signature, writing or seal with others admitted or proved.

The Court may direct any person present in Court to write any words or figures for the purpose of enabling the Court to compare the words or figures so written with any words or figures alleged to have been written by such person.

This section applies also, with any necessary modifications, to finger impressions.

Public Documents.

74. The following documents are public documents :--

Public Documents.

(1) documents forming the Acts or records of the Acts—

(i) of the Sovereign Authority,

(ii) of official bodies and tribunals, and

(iii) of public officers, legislative, judicial, and executive, whether of Travancore, British Indian, an Indian State or the United Kingdom.

(2) Public records kept in Travancore of private documents.

75. All other documents are private.

Private Documents.

76. Every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees therefor, together with a certficate written at the foot of such copy that it it a true copy of such document or part thereof, as the case may be and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorised by law to make use of a seal, and such copies so certified shall be called certified copies.

Certified copies of public documents.

Explanation.—Any officer who, by the ordinary course of official duty, is authorised to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section.

77. Such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies,

Proof of documents by production of certified copies.

78. The following public documents may be proved as follows :—

Proof of other official documents.

(1) Acts, orders or notifications of Our Government in any of its departments, by the records of the departments, certified by the heads of those departments, respectively, or by any document purporting to be printed by order of Our Government;

(2) the proceedings of the Legislatures, by the journal reports of those bodies or by published Acts or abstracts or by copies purporting to be printed by order of Our Government;

(3) Proclamations or orders or Acts issued by Us, by copies or extracts contained in Our Government Gazette;

(4) the Acts of the Executive or the proceedings of the Legislature of a foreign country,—

by journals published by their authority, or commonly received in that country as such, or by a copy certified under the seal of the country or Sovereign ;

(5) Proceedings of a Municipal body in Travancore,— by a copy of such proceedings, certified by the legal keeper thereof, or by a printed book purporting to be published by the authority of such body ;

(6) public documents of any other class in a foreign country,— by the original, or by a copy certified by the legal keeper thereof, with a certificate under the seal of a Notary Public, or of a British Consul or diplomatic agent, that the copy is duly certified by the officer having the legal custody of the original, and upon proof of the character of the document according to the law of the foreign country.

Presumptions as to documents.

Presumption as to genuineness of certified copies.

79. The Court shall presume every document purporting to be a certificate, certified copy or other document, which is by law declared to be admissible as evidence of any particular fact and which purports to be duly certified by any officer in Travancore or in British India, or by any officer in any Indian State, in alliance with His Majesty the King Emperor who is duly authorised thereto by the Governor General in council to be genuine :

Provided that such document is substantially in the form and purports to be executed in the manner directed by law in that behalf.

The Court shall also presume that any officer by whom any such document purports to be signed or certified, held, when he signed it, the official character which he claims in such paper.

Presumption as to documents produced as record of evidence.

80. Whenever any document is produced before any Court, purporting to be a record or memorandum of the evidence, or of any part of the evidence, given by a witness in a judicial proceeding or before any officer authorised by law to take such evidence or to be a statement or confession by any prisoner or accused person, taken in accordance with law, and purporting to be signed by any Judge or Magistrate, or by any such officer as aforesaid, the Court shall presume—

that the document is genuine; that any statements as to the circumstances under which it was taken, purporting to be made by the person signing it, are true, and that such evidence, statement or confession was duly taken.

Presumption as to Gazettes, newspapers, private Acts of Parliament and other documents.

81. The Court shall presume the genuineness of every document purporting to be Our Gevernment Gazette or the London Gazette or the Gazette of India, or the Government Gazette of any Loacl Government, or of any colony, dependency or possession of the British Crown, or to be a newspaper or journal, or to be a copy of a private Act of Parliament printed by the Queen's Printer and of every document purporting to be a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper custody.

Presumption as to document admissible in England without proof of seal or signature.

82. When any document is produced before any Court, purporting to be a document which, by the law in force for the time being in England and Ireland, would be admissible in proof of any particular in any Court of Justice in England or Ireland, without proof of the seal or stamp or signature authenticating it, or of the judicial or official character claimed by the person by whom it purports to be signed, the Court shall presume that such seal, stamp or signature is genuine, and that the person signing it held, at the time when he signed it, the judicial or official character which he claims—

and the document shall be admissible for the same purpose for which it would be admissible in England or Ireland.

Presumption as to maps or plans made by authority of Government.

83. The Court shall presume that maps or plans purporting to be made by the authority of Our Government were so made, and are accurate; but maps or plans made for the purposes of any cause must be proved to be accurate.

84. The Court shall presume the genuineness of every book purporting to be printed or published under the authority of the Government of any country, and to contain any of the laws of that country,

Presumption as to collections of laws and reports of decisions.

and of every book purporting to contain reports of decisions of the Courts of such country.

85. The Court shall presume that every document purporting to be a power-of-attorney, and to have been executed before, and authenticated by, a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of His Majesty, or of the Government of India, was so executed and authenticated.

Presumption as to powers-of-attorney.

86. The Court may presume that any document purporting to be a certified copy of any judicial record of any country not forming part of His Majesty's dominions is genuine and accurate, if the document purports to be certified in any manner which is certified by any representative of His Majesty or of the Government of India, in or for such country to be the manner commonly in use in that country for the certification of the copies of judicial records.

Presumption as to certified copies of foreign judicial records.

An officer who, with respect to any territory or place not forming part of His Majesty's dominions, is a Political Agent therefor, as defined in Section 3, clause (40) of the British Indian General Clauses Act, 1897, shall, for the purposes of this section, be deemed to be a representative of the Government of India in and for the country comprising that territory or place.

87. The Court may presume that any book to which it may refer for information on matters of public or general interest, and that any published map or chart, the statements of which are relevant facts and which is produced for its inspection, was written and published by the person and at the time and place, by whom or at which it purports to have been written or published.

Presumption as to books, maps and charts.

88. The Court may presume that a message, forwarded from a telegraph office to the person to whom such message purports to be addressed, corresponds with a message delivered for transmission at the office from which the message purports to be sent; but the Court shall not make any presumption as to the person by whom such message was delivered for transmission.

Presumption as to telegraphic messages.

89. The Court shall presume that every document, called for and not produced after notice to produce, was attested, stamped and executed in the manner required by law.

Presumption as to due execution, etc., of documents not produced.

90. Where any document, purporting or proved to be thirty years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the signature and every other part of such document, which purports to be in the handwriting of any particular person, is in that person's handwriting and in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested.

Presumption as to documents thirty years old.

Explanation :—Documents are said to be in proper custody if they are in the place in which, and under the care of the person with whom, they would naturally be; but no custody is improper if it is proved to have had a legitimate origin, or if the circumstances of the particular case are such as to render such an origin probable.

This explanation applies also to Section 81.

Illustrations.

(*a*) A has been in possession of landed property for a long time. He produces from his custody deeds relating to the land, showing his titles to it. The custody is proper.

(*b*) A produces deeds relating to landed property of which he is the mortgagee. The mortgagor is in possession. The custody is proper.

(*c*) A, a connection of B, produces deeds relating to lands in B's possession which were deposited with him by B for safe custody. The custody is proper.

CHAPTER VI.

Of the Exclusion of Oral by Documentary Evidence.

91. When the terms of a contract, or of a grant, or of any other disposition of property, have been reduced to the form of a document, and in all cases in which any matter is required by law to be reduced to the form of a document, no evidence shall be given in proof of the terms of such contract, grant or other disposition of property, or of such matter, except the document itself, or secondary evidence of its contents in cases in which secondary evidence is admissible under the provisions hereinbefore contained.

Evidence of terms of contract, grants and other dispositions of property reduced to form of document.

Exception 1.—When a public officer is required by law to be appointed in writing, and when it is shown that any particular person has acted as such officer, the writing by which he is appointed need not be proved.

Exception 2. Wills admitted to probate in Travancore may be proved by the probate.

Explanation. 1.—This section applies equally to cases in which the contracts, grants or dispositions of property referred to are contained in one document and to cases in which they are contained in more documents than one.

Explanation 2.—Where there are more originals than one, one original only need be proved.

Explanation 3.—The statement, in any document whatever, of a fact other than the facts referred to in this section, shall not preclude the admission of oral evidence as to the same fact.

Illustrations.

(*a*) If a contract be contained in several letters, all the letters in which it is contained must be proved.

(*b*) If a contract is contained in a bill of exchange, the bill of exchange must be proved.

(*c*) If a bill of exchange is drawn in a set of three, one only need be proved.

(*d*) A contracts, in writing, with B, for the delivery of indigo upon certain terms. The contract mentions the fact that B had paid A the price of other indigo contract for verbally on another occasion.

Oral evidence is offered that no payment was made for the other indigo. The evidence is admissible.

(*e*) A gives B receipt for money paid by B.

Oral evidence is offered of the payment.

The evidence is admissible.

Exclusion of evidence of oral agreement.

92. When the terms of any such contract, grant or other disposition of property, or any matter required by law to be reduced to the form of a document, have been proved according to the last section, no evidence of any oral agreement or statement shall be admitted, as between the parties to any such instrument or their representatives in interest, for the purpose of contradicting, varying, adding to or subtracting from, its terms :

Proviso (1)—Any fact may be proved which would invalidate any document, or which would entitle any person to any decree or order relating thereto; such as fraud, intimidation, illegality, want of due execution, want of capacity in any contracting party, want or failure of consideration, or mistake in fact or law.

Proviso (2)—The existence of any separate oral agreement as to any matter on which a document is silent, and which is not inconsistent with its terms, may be proved. In considering whether or not this proviso applies, the Court shall have regard to the degree of formality of the document.

Proviso (3)—The existence of any separate oral agreement, constituting a condition precedent to the attaching of any obligation under any such contract, grant or disposition of property, may be proved.

Proviso (4)—The existence of any distinct subsequent oral agreement to rescind or modify any such contract grant or disposition of property may be proved except in cases in which such contract, grant or disposition of property is by law required to be in writing, or has been registered according to the law in force for the time being as to the registration of documents.

Proviso (5)—Any usage or custom by which incidents not expressly mentioned in any contract or usually annexed to contracts of that description, may be proved;

Provided that the annexing of such incident would not be repugnant to, or inconsistent with, the express terms of the contract.

Proviso (6)—Any fact may be proved which shows in what manner the language of a document is related to existing facts.

Illustrations.

(*a*) A policy of insurance is effected on goods "in ships from Alleppey to London". The goods are shipped in a particular ship which is lost. The fact that that particular ship was orally excepted from the policy cannot be proved.

(*b*) A agrees absolutely in writing to pay B, Rs. 1000 on the first March 1941. The fact that, at the same time an oral agreement was made that the money should not be paid till the thirty-first March cannot be proved.

(*c*) An estate called "the Rampore tea estate" is sold by a deed which contains a map of the property sold. The fact that land not included in the map had always been regarded as part of the estate and was meant to pass by the deed cannot be proved.

(*d*) A enters into a written contract with B to work certain mines, the property of B, upon certain terms. A was induced to do so by a misrepresentation of B's as to their value. This fact may be proved.

(*e*) A institutes a suit against B for the specific performance of a contract, and also prays that the contract may be reformed as to one of its provisions, as that provision was inserted in it by mistake. A may prove that such a mistake was made as would by law entitle him to have the contract reformed.

(*f*) A orders goods of B by a letter in which nothing is said as to the time of payment, and accepts the goods on delivery. B sues A for the price. A may show that the goods were supplied on credit for a term still unexpired.

(*g*) A sells B a horse and verbally warrants him sound. A gives B a paper in these words: "Bought of A a horse for Rs. 500". B may prove the verbal warranty.

(*h*) A hires lodgings of B, and gives a card on which is written "Rooms, Rs. 200 a month." A may prove a verbal agreement that these terms were to include partial board.

A hires lodgings of B for a year, and a regularly stamped agreement, drawn up by an attorney, is made between them. It is silent on the subject of board. A may not prove that board was included in the term verbally.

(*i*) A applies to B for a debt due to A by sending a receipt for the money. B keeps the receipt and does not send the money. In a suit for the amount A may prove this.

(*j*) A and B make a contract in writing to take effect upon the happening of a certain contingency. The writing is left with B, who sues A upon it. A may show the circumstances under which it was delivered.

Exclusion of evidence to explain or amend ambiguous document.

93. When the language used in a document is, on its face, ambiguous or defective, evidence may not be given of facts which would show its meaning or supply its defects.

Illustrations.

(*a*) A agrees, in writing, to sell a horse to B for Rs. 1000 or Rs. 1500.

Evidence cannot be given to show which price was to be given.

(*b*) A deed contains blanks. Evidence cannot be given of facts which would show how they were meant to be filled.

Exclusion of evidence against application of document to existing facts.

94. When language used in a document is plain in itself, and why it applies accurately to existing facts, evidence may not be given to show that it was not meant to apply to such facts.

Illustration.

A sells to B, by deed, "my estate at Ranni containing 100 acres." A has an estate at Ranni containing 100 acres. Evidence may not be given of the fact that the estate meant to be sold was one situated at a different place and of a different size.

Evidence as to document unmeaning in reference to existing facts.

95. When language used in a document is plain in itself, but is unmeaning in reference to existing facts, evidence may be given to show that it was used in a peculiar sense.

Illustration.

A sells to B, by deed, "my house in Trivandrum."

A had no house in Trivandrum, but it appears that he had a house at Nagercoil, of which B had been in possession since the execution of the deed.

These facts may be proved to show that the deed related to the house at Nagercoil.

Evidence as to application of language which can apply to one only of several persons.

96. When the facts are such that the language used might have been meant to apply to any one, and could not have been meant to apply to more than one, of several persons or things, evidence may be given of facts which show which of those persons or things it was intended to apply to.

Illustrations.

(*a*) A agrees to sell to B, for Rs. 1000 "my white horse." A has two white horses. Evidence may be given of facts which show which of them was meant.

(*b*) A agrees to accompany B to Haidrabad. Evidence may be given of facts showing whether Haidrabad in the Dekkhan or Haidrabad in Sind was meant.

Evidence as to application of language to one of two sets of facts, to neither of which the whole correctly applies.

97. When the language used applies partly to one set of existing facts, and partly to another set of existing facts, but the whole of it does not apply correctly to either, evidence may be given to show to which of the two it was meant to apply.

Illustration.

A agrees to sell to B "my land at X in the occupation of Y." A has land at X, but not in the occupation of Y and he has land in the occupation of Y, but it is not at X. Evidence may be given of facts showing which he meant to sell.

Evidence as to meaning of illegible characters, etc.

98. Evidence may be given to show the meaning of illegible or not commonly intelligible characters, of foreign, obsolete, technical, local and provincial expressions, of abbreviations and of words used in a peculiar sense.

Illustration.

A, sculptor, agrees to sell to B, "all my models," A has both models and modelling tools. Evidence may be given to show which he meant to sell.

99. Persons who are not parties to a document, or their representatives in interest, may give evidence of any facts tending to show a contemporaneous agreement varying the terms of the document.

Who may give evidence of agreement varying terms of document.

Illustration.

A and B make a contract in writing that B shall sell A certain cotton, to be paid for on delivery. At the same time they make an oral agreement that three months credit shall be given to A. This could not be shown as between A and B, but it might be shown by C if it affected his interests.

100. Nothing in this Chapter contained shall be taken to affect any of the provisions of any enactment for the time being in force as to the construction of wills.

Saving of provisions of any enactment for the time being in force relating to wills.

PART III.

Production and Effect of Evidence

CHAPTER VII.

Of the Burden of Proof

101. Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.

Burden of proof.

When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

Illustrations.

(*a*) A desires a Court to give judgment that B shall be punished for a crime which A says B has committed.

A must prove that B has committed the crime.

(*b*) A desires a Court to give judgment that he is entitled to certain land in the possession of B, by reason of facts which he asserts, and which B denies, to be true.

A must prove the existence of those facts.

102. The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.

On whom burden of proof lies.

Illustrations

(*a*) A sues B for land of which B is in possession, and which as A asserts, was left to A by the will of C, B's father.

If no evidence were given on either side, B would be entitled to retain his possession.

Therefore the burden of proof is on A.

(*b*) A sues B for money due on a bond.

The execution of the bond is admitted, but B says that it was obtained by fraud, which A denies.

If no evidence were given on either side, A would succeed as the bond is not disputed and the fraud is not proved.

Therefore the burden of proof is on B.

Burden of proof as to particular fact.

103. The burden of proof as to any particular fact lies on that person who wishes the Court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.

Illustration.

A prosecutes B for theft, and wishes the Court to believe that B admitted the theft to C. A must prove the admission.

B wishes the Court to believe that at the time in question, he was elsewhere. He must prove it.

Burden of proving fact to be proved to make evidence admissible

104. The burden of proving any fact necessary to be proved in order to enable any person to give evidence of any other fact is on the person who wishes to give such evidence.

Illustrations.

(*a*) A wishes to prove a dying declaration by B. A must prove B's death.

(*b*) A wishes to prove, by secondary evidence, the contents of a lost document.

A must prove that the document has been lost.

Burden of proving that case of accused comes within exceptions.

105. When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the General Exceptions in the Travancore Penal Code, or within any special exception or proviso contained in any other part of the same Code or in any law defining the offence, is upon him, and the Court shall presume the absence of such circumstances.

Illustrations.

(*a*) A, accused of murder, alleges that, by reason of unsoundness of mind, he did not know the nature of the act.

The burden of proof is on A.

(*b*) A, accused of murder, alleges that by grave and sudden provocation, he was deprived of the power of self-control.

The burden of proof is on A.

(*c*) Section 325 of the Travancore Penal Code provides that whoever, except in the case provided for by Section 335 voluntarily causes grievous hurt, shall be subject to certain punishments.

A is charged with voluntarily causing grievous hurt under Section 325.

The burden of proving the circumstances bringing the case under Section 335 lies on A.

Burden of proving fact especially within knowledge.

106. When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.

Illustrations.

(*a*) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him.

(*b*) A is charged with travelling on a railway without a ticket. The burden of proving that he had a ticket is on him.

Burden of proving death of person known to have been alive within 30 years.

107. When the question is whether a man is alive, or dead, and it is shown that he was alive within thirty years, the burden of proving that he is dead is on the person who affirms it.

Burden of proving that person is alive who has not been heard of for seven years.

108. Provided that when the question, is whether a man is alive or dead, and it is proved that he has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is, shifted to the person who affirms it.

Burden of proof as to relationship in the cases of partners, landlord and tenant, principal and agent.

109. When the question is whether persons are partners, landlord and tenant, or principal and agent, and it has been shown that they have been acting as such, the burden of proving that they do not stand, or have ceased to stand, to each other in those relationships respectively, is on the person who affirms it.

Burden of proof as to ownership.

110. When the question is whether any person is owner of anything of which he is shown to be in possession, the burden of proving that he is not the owner is on the person who affirms that he is not the owner.

Proof of good faith in transactions where one party is in relation of active confidence.

111. Where there is a question as to the good faith of a transaction between parties, one of whom stands to the other in a position of active confidence, the burden of proving the good faith of the transaction is on the party who is in a position of active confidence.

Illustrations.

(*a*) The good faith of a sale by a client to an attorney is in question in a suit brought by the client. The burden of proving the good faith of the transaction is on the attorney.

(*b*) The good faith of a sale by a son just come of age to a father is in question in a suit brought by the son. The burden of proving the good faith of the transaction is on the father.

Birth during marriage conclusive proof of legitimacy.

112. The fact that any person was born during the continuance of a valid marriage between his mother and any man, or within two hundred and eighty days after its dissolution, the mother remaining unmarried, shall be conclusive proof that he is the legitimate son of that man, unless it can be shown that the parties to the marriage had no access to each other at any time when he could have been begotten.

Proof of cession of territory.

113. A notification in the Gazette of India that any portion of British territory has been ceded to any Indian State, Prince or Ruler, shall be conclusive proof that a valid cession of such territory took place at the date mentioned in such notification.

Court may presume existence of certain facts.

114. The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

Illustrations.

The Court may presume—

(*a*) that a man who is in possession of stolen goods soon after the theft is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession;

(*b*) that an accomplice is unworthy of credit, unless he is corroborated in material particulars;

(*c*) that a bill of exchange, accepted or endorsed, was accepted or endorsed for good consideration;

(*d*) that a thing or state of things which has been shown to be in existence within a period shorter than that within which such things or state of things usually cease to exist, is still in existence;

(e) that judicial and official acts have been regularly performed;

(*f*) that the common course of business has been followed in particular cases;

(*g*) that evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it;

(*h*) that, if a man refuses to answer a question which he is not compelled to answer by law, the answer, if given, would be unfavourable to him ;

(*i*) that when a document creating an obligation is in the hands of the obligor, the obligation has been discharged.

But the Court shall also have regard to such facts as the following, in considering whether such maxims do or do not apply to the particular case before it :—

as to illustration (*a*) —a shopkeeper has in his till a marked rupee soon after it was stolen, and cannot account for its possession specifically, but is continually receiving rupees in the course of his business;

as to illustration (*b*)—A, a person of the highest character, is tried for causing a man's death by an act of negligence in arranging certain machinery. B, a person of equally good character, who also took part in the arrangement, describes precisely what was done, and admits and explains the common carelessness of A and himself ;

as to illustration (*b*)—a crime is committed by several persons. A, B and C, three of the criminals, are captured on the spot and kept apart from each other. Each gives an account of the crime implicating D, and the accounts corroborate each other in such a manner as to render previous concert highly improbable ;

as to illustration (*c*)—A, the drawer of a bill of exchange, was a man of business, B, the acceptor, was a young and ignorant person completely under A's influence ;

as to illustration (*d*)—it is proved that a river ran in a certain course five years ago, but it is known that there have been floods since that time which might change its course ;

as to illustration (*e*)—a judicial act, the regularity of which is in question, was performed under exceptional circumstances ;

as to illustration (*f*)—the question is, whether a letter was received. It is shown to have been posted, but the usual course of the post was interrupted by disturbances ;

as to illustration (*g*)—a man refuses to produce a document which would bear on a contract of small importance on which he is sued, but which might also injure the feelings and reputation of his family ;

as to illustration (*h*)—a man refuses to answer a question which he is not compelled by law to answer but the answer to it might cause loss to him in matters unconnected with the matter in relation to which it is asked ;

as to illustration (*i*)—a bond is in possession of the obligor, but the circumstances of the case are such that he may have stolen it.

CHAPTER VIII.

Estoppel.

Estoppel.

115. When one person has, by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing.

Illustration.

A intentionally and falsely leads B to believe that certain land belongs to A, and thereby induces B to buy and pay for it.

The land afterwards becomes the property of A, and A seeks to set aside the sale on the ground that, at the time of the sale, he had no title. He must not be allowed to prove his want of title.

Estoppel of tenant.

116. No tenant of immovable property, or person claiming through such tenant, shall, during the continuance of the tenancy be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immovable property; and no person who came upon any immovable property by the license of the person in possession thereof shall be permitted to deny that such person had a title to such possession at the time when such license was given.

and of licensee of person in possession.

Estoppel of acceptor of bill of exchange, bailee or licensee.

117. No acceptor of a bill of exchange shall be permitted to deny that the drawer had authority to draw such bill or to endorse it; nor shall any bailee or licensee be permitted to deny that his bailor or licensor had at the time when the bailment or license commenced, authority to make such bailment or grant such license.

Eplanation. 1. The acceptor of a bill of exchange may deny that the bill was really drawn by the person by whom it purports to have been drawn.

Explanation 2. If a bailee delivers the goods bailed to a person other than the bailor, he may prove that such persons had a right to them as against the bailor.

CHAPTER IX.

Of Witnesses.

Who may testify.

118. All persons shall be competent to testify unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind.

Explanation.—A lunatic is not incompetent to testify, unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them.

Dumb witnesses.

119. A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible, as by writing or by signs : but such writing must be written and the signs made in open Court. Evidence so given shall be deemed to be oral evidence.

Parties to civil suit, and their wives or husbands. Husband or wife of person under criminal trial.

120. In all civil proceedings the parties to the suit, and the husband or wife of any party to the suit, shall be competent witnesses. In criminal proceedings against any person, the husband or wife of such person, respectively, shall be a competent witness.

Judges and Magistrates.

121. No Judge or Magistrate shall, except upon the special order of some Court to which he is subordinate, be compelled to answer any questions as to his own conduct in Court as such Judge or Magistrate, or as to anything which came to his knowledge in Court as such Judge or Magistrate: but he may be examined as to other matters which occurred in his presence whilst he was so acting.

Illustrations.

(*a*) A, on his trial before the Court of Session, says that a deposition was improperly taken by B, the Magistrate. B cannot be compelled to answer questions as to this, except upon the special order of a superior Court.

(*b*) A is accused before the Court of Session of having given false evidence before B, a Magistrate. B, cannot be asked what A said, except upon the special order of the superior Court.

(*c*) A is accused before the Court of Session of attempting to murder a police-officer whilst on his trial before B, a Sessions Judge. B may be examined as to what occurred.

Communications during marriage.

122. No person who is or has been married shall be compelled to disclose any communication made to him during marriage by any person to whom he is or has been married; nor shall he be permitted to disclose any such communication, unless the person who made it, or his representative in interest, consents, except in suits between married persons, or proceedings in which one married person is prosecuted for any crime committed against the other.

123. No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit.

Evidence as to affairs of State.

124. No public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interests would suffer by the disclosure.

Official communications.

125. No Magistrate or Police Officer shall be compelled to say whence he got any information as to the commission of any offence, and no Revenue Officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue.

Information as to commission of offences

Explanation—"Revenue Officer" in this section means any officer employed in or about the business of any branch of the public revenue.

126. No advocate, attorney, pleader or vakil shall at any time be permitted, unless with his client's express consent to disclose any communication made to him in the course and for the purpose of his employment as such advocate, pleader, attorney or vakil, by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment, or to disclose any advice given by him to his client in the course and for the purpose of such employment :

Professional communications.

Provided that nothing in this section shall protect from disclosure—

(1) any such communication made in furtherence of any illegal purpose;

(2) any fact observed by any advocate, pleader, attorney or vakil in the course of his employment as such, showing that any crime or fraud has been committed since the commencement of his employment.

It is immaterial whether the attention of such advocate, pleader, attorney or vakil was or was not directed to such fact by or on behalf of his client.

Explanation—The obligation stated in this section continues after the employment has ceased.

Illustrations.

(*a*) A, a client, says to B, an attorney "I have committed forgery and I wish you to defend me".

As the defence of a man known to be guilty is not a criminal purpose, this communication is protected from disclosure.

(*b*) A, a client, says to B, an attorney "I wish to obtain possession of property by the use of a forged deed on which I request you to sue".

The communication, being made in furtherence of a criminal purpose, is not protected from disclosure.

(*c*) A, being charged with embezzlement, retains B, an attorney to defend him. In the course of the proceedings, B observes that an entry has been made in A's account book, charging A with the sum said to have been embezzled, which entry was not in the book at the commencement of his employment.

This being a fact observed by B in the course of his employment, showing that a fraud has been committed since the commencement of the proceedings, it is not protected from disclosure.

Section 126 to apply to interpreters, etc.

127. The provisions of Section 126 shall apply to interpreters, and the clerks or servants of advocates, pleaders, attorneys and vakils.

Privilege not waived by volunteering evidence.

128. If any party to a suit gives evidence therein at his own instance or otherwise, he shall not be deemed to have consented thereby to such disclosure as is mentioned in Section 126; and, if any party to a suit or proceeding calls any such advocate, pleader, attorney or vakil as a witness, he shall be deemed to have consented to such disclosure only if he questions such advocate, pleader, attorney, or vakil on matters which, but for such question, he would not be at liberty to disclose.

Confidential communications with legal advisers.

129. No one shall be compelled to disclose to the Court any confidential communication which has taken place between him and his legal professional adviser, unless he offers himself as a witness, in which case he may be compelled to disclose any such communications as may appear to the Court necessary to be known in order to explain any evidence which he has given, but no others.

Production of title deed of witness, not a party.

130. No witness who is not a party to a suit shall be compelled to produce his title deeds to any property or any document in virtue of which he holds any property as pledgee or mortgagee or any document the production of which might tend to criminate him, unless he has agreed in writing to produce them with the person seeking the production of such deeds or some person through whom he claims.

Production of documents which another person, having possession, could refuse to produce.

131. No one shall be compelled to produce documents in his possession, which any other person would be entitled to refuse to produce if they were in his possession, unless such last-mentioned person consents to their production.

132. A witness shall not be excused from answering any question as to any matter relevant to the matter in issue in any suit or in any civil or criminal proceeding, upon the ground that the answer to such question will criminate, or may tend directly or indirectly to criminate, such witness, or that it will expose, or tend directly or indirectly to expose, such witness to a penalty or forfeiture of any kind :

Witness not excused from answering on ground that answer will criminate.

Provided that no such answer, which a witness shall be compelled to give, shall subject him to any arrest or prosecution, or be proved against him in any criminal proceeding, except a prosecution for giving false evidence by such answer.

Proviso.

133. An accomplice shall be a competent witness against an accused person ; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.

Accomplice.

134. No particular number of witnesses shalll in any case be required for the proof of any fact.

Number of witnesses.

CHAPTER X.

Of the Examination of Witnesses.

135. The order in which witnesses are produced and examined shall be regulated by the law and practice for the time being relating to civil and criminal procedure respectively, and, in the absence of any such law, by the discretion of the Court.

Order of production and examination of witnesses.

136. When either party proposes to give evidence of any fact, the Judge may ask the party proposing to give the evidence in what manner the alleged fact, if proved, would be relevant ; and the Judge shall admit the evidence if he thinks that the fact, if proved, would be relevant and not otherwise.

Judge to decide as to admissibility of evidence.

If the fact proposed to be proved, is one of which evidence is admissible only upon proof of some other fact, such last-mentioned fact must be proved before evidence is given of the fact first mentioned, unless the party undertakes to give proof of such fact, and the Court is satisfied with such undertaking.

If the relevancy of one alleged fact depends upon another alleged fact being first proved, the Judge may, in his discretion, either permit evidence of the first fact to be given before the second fact is proved, or require evidence to be given of the second fact before evidence is given of the first fact.

Illustrations.

(*a*) It is proposed to prove a statement about a relevant fact by a person alleged to be dead which statement is relevant under Section 32.

The fact that the person is dead must be proved by the person proposing to prove the statement, before evidence is given of the statement.

(*b*) It is proposed to prove, by a copy, the contents of a document said to be lost.

The fact that the original is lost must be proved by the person proposing to produce the copy, before the copy is produced.

(*c*) A is accused of receiving stolen property knowing it to have been stolen.

It is proposed to prove that he denied the possession of the property.

The relevancy of the denial depends on the identity of the property. The Court may, in its discretion, either require the property to be identified before the denial of the possession is proved, or permit the denial of possession to be proved before the property is identified.

(*d*) It is proposed to prove a fact (A) which is said to have been the cause or effect of a fact in issue. There are several intermediate facts (B, C and D) which must be shown to exist before the fact (A) can be regarded as the cause or effect of the fact in issue. The Court may either permit A to be proved before B, C and D is proved, or may require proof of B, C and D before permitting proof of A.

Examination-in-chief.

137. The examination of a witness by the party who calls him shall be called his examination-in-chief.

Cross-examination.

The examination of a witness by the adverse party shall be called his cross-examination.

Re-examination.

The examination of a witness, subsequent to the cross-examination by the party who called him, shall be called his re-examination.

Order of examinations.

138. Witnesses shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, (then if the party calling him so desires) re-examined.

The examination and cross-examination must relate to relevant facts but the cross-examination need not be confined to the facts to which the witness testified on his examination-in-chief.

Direction of re-examination.

The re-examination shall be directed to the explanation of matters referred to in cross-examination; and, if new matter is, by permission of the Court, introduced in re-examination, the adverse party may further cross-examine upon that matter.

Cross-examination of person called to produce a document.

139. A person summoned to produce a document does not become a witness by the mere fact that he produces it and cannot be cross-examined unless and until he is called as a witness.

Witnesses to character.

140. Witnesses to character may be cross-examined and re-examined.

Leading questions.

141. Any question suggesting the answer which the person putting it wishes or expects to receive is called a leading question.

When they must not be asked.

142. Leading questions must not, if objected to by the adverse party, be asked in an examination-in-chief, or in a re-examination, except with the permission of the Court.

The Court shall permit leading questions as to matters which are introductory or undisputed, or which have, in its opinion, been already sufficiently proved.

When they may be asked.

143. Leading questions may be asked in cross-examination.

Evidence as to matters in writing.

144. Any witness may be asked, whilst under examination, whether any contract, grant or other disposition of property, as to which he is giving evidence, was not contained in a document, and if he says that it was, or if he is about to make any statement as to the contents of any document, which in the opinion of the Court, ought to be produced, the adverse party may object to such evidence being given until such document is produced, or until facts have been proved which entitle the party who called the witness to give secondary evidence of it.

Explanation.—A witness may give oral evidence of statements made by other persons about the contents of documents if such statements are in themselves relevant facts.

Illustration.

The question is, whether A assaulted B.

C deposes that he heard A say to D—"B wrote a letter accusing me of theft, and I will be revenged on him." This statement is relevant, as showing A's motive for the assault, and evidence may be given of it, though no other evidence is given about the letter.

145. A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved; but, if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him.

Cross-examination as to previous statements in writing.

146. When a witness is cross-examined, he may in addition to the questions hereinbefore referred to be asked any questions which tend—

Questions lawful in cross-examination.

(1) to test his veracity,

(2) to discover who he is and what is his possition in life, or

(3) to shake his credit by inquiring his character, although the answer to such questions might tend directly or indirectly to criminate him or might expose or tend directly or indirectly to expose him to a penalty or forfeiture.

147. If any such question relates to a matter relevant to the suit or proceeding, the provisions of Section 132 shall apply thereto.

When witness to be compelled to answer.

148. If any such question relates to a matter not relevant to the suit or proceeding, except in so far as it affects the credit of the witness by injuring his character, the Court shall decide whether or not the witness shall be compelled to answer it, and may, if it thinks fit, warn the witness that he is not obliged to answer it. In exercising its discretion, the Court shall have regard to the following considerations :—

Court to decide when question shall be asked and when witness compelled to answer.

(1) such questions are proper if they are of such a nature that the truth of the imputation conveyed by them would seriously affect the opinion of the Court as to the credibility of the witness on the matter to which he testifies ;

(2) such questions are improper if the imputation which they convey relates to matters so remote in time, or of such a character, that the truth of the imputation would not affect, or would affect in a slight degree, the opinion of the Court as to the credibility of the witness on the matter to which he testifies ;

(3) such questions are improper if there is a great disproportion between the importance of the imputation made against the witness's character and the importance of his evidence ;

(4) the Court may, if it sees fit, draw from the witness's refusal to answer, the inference that the answer if given would be unfavourable,

149. No such question as is referred to in Section 148 ought to be asked, unless the person asking it has reasonable grounds for thinking that the imputation which it conveys is well founded.

Question not to be asked without reasonable grounds.

Illustrations.

(*a*) An advocate is instructed by an attorney or vakil that an important witness is a dacoit. This is a reasonable ground for asking the witness whether he is a dacoit.

(*b*) A pleader is informed by a person in Court that an important witness is a dacoit. The informant, on being questioned by the pleader, gives satisfactory reasons for his statement. This is a reasonable ground for asking the witness whether he is a dacoit.

(*c*) A witness, of whom nothing whatever is known, is asked at random whether he is a dacoit. There are here no reasonable grounds for the question.

(*d*) A witness, of whom nothing whatever is known, being questioned as to his mode of life and means of living, gives unsatisfactory answers. This may be reasonable ground for asking him if he is a dacoit.

150. If the Court is of opinion that any such question was asked without reasonable grounds, it may, if it was asked by an advocate, pleader, vakil or attorney, report the circumstances of the case to the High Court or other authority to which such advocate, pleader, vakil or attorney is subject in the exercise of his profession.

Procedure of Court in case of question being asked without reasonable grounds.

151. The Court may forbid any questions or inquiries which it regards as indecent or scandalous, although such questions or inquiries may have some bearing on the questions before the Court, unless they relate to facts in issue, or to matters necessary to be known in order to determine whether or not the facts in issue existed.

Indecent and scandalous questions.

152. The Court shall forbid any question which appears to it to be intended to insult or annoy, or which, though proper in itself, appears to the Court needlessly offensive in form.

Questions intended to insult or annoy.

153. When a witness has been asked and has answered any question which is relevant to the inquiry only in so far as it tends to shake his credit by injuring his character, no evidence shall be given to contradict him; but, if he answers falsely, he may afterwards be charged with giving false evidence.

Exclusion of evidence to contradict answers to questions testing veracity.

Exception 1.—If a witness is asked whether he has been previously convicted of any crime and denies it, evidence may be given of his previous conviction.

Exception 2.—If a witness is asked any question tending to impeach his impartiality and answers it by denying the facts suggested, he may be contradicted.

Illustrations.

(*a*) A claim against an underwriter is resisted on the ground of fraud.

The claimant is asked whether, in a former transaction, he had not made a fraudulent claim. He denies it.

Evidence is offered to show that he did make such a claim.

The evidence is inadmissible.

(*b*) A witness is asked whether he was not dismissed from a situation for dishonesty. He denies it.

Evidence is offered to show that he was dismissed for dishonesty. The evidence is not admissible.

(*c*) A affirms that on a certain day he saw B at Trivandrum.

A is asked whether he himself was not on that day at Kottayam. He denies it. Evidence is offered to show that A was on that day at Kottayam.

The evidence is admissible, not as contradicting A on a fact which affects his credit, but as contradicting the alleged fact that B was seen on the day in question in Trivandrum.

In each of these cases the witness might, if his denial was false, be charged with giving false evidence.

(*d*) A is asked whether his family has not had a blood fued with the family of B against whom he gives evidence.

He denies it. He may be contradicted on the ground that the question tends to impeach his impartiality.

Question by party to his own witness.

154. The Court may, in its discretion, permit the person who calls a witness to put any questions to him which might be put in cross-examination by the adverse party.

Impeaching credit of witness.

155. The credit of a witness may be impeached in the following ways by the adverse party, or, with the consent of the court, by the party who calls him—

(1) by the evidence of persons who testify that they, from their knowledge of the witness, believe him to be unworthy of credit;

(2) by proof that the witness has been bribed, or has accepted the offer of a bribe, or has received any other corrupt inducement to give his evidence;

(3) by proof of former statements inconsistent with any part of his evidence which is liable to be contradicted :

(4) when a man is prosecuted for rape or an attempt to ravish, it may be shown that the prosecutrix was of generally immoral character.

Explanation.—A witness declaring another witness to be unworthy of credit may not, upon his examination-in-chief, give reason for his belief, but he may be asked his reasons in cross-examination and the answers which he gives cannot be contradicted, though, if they are false, he may afterwards be charged with giving false evidence.

Illustrations.

(*a*) A sues B for the price of goods sold and delivered to B, C says that A delivered the goods to B.

Evidence is offered to show that, on a previous occasion, he said that he had not delivered the goods to B.

The evidence is admissible.

(*b*) A is indicted for the murder of B.

C says that B, when dying, declared that A had given B the wound of which he died.

Evidence is offered to show that, on a previous occasion, C said that the wound was not given by A or in his presence.

The evidence is admissible.

Questions tending to corroborate evidence of relevant fact admissible.

156. When a witness whom it is intended to corroborate gives evidence of any relevant fact, he may be questioned as to any other circumstances which he observed at or near to the time or place at which such relevant fact occurred, if the court is of opinion that such circumstances, if proved, would corroborate the testimony of the witness as to the relevant fact which he testifies.

Illustration.

A, an accomplice, gives an account of a robbery in which he took part. He describes various incidents unconnected with the robbery which occurred on his way to and from the place where it was committed.

Independent evidence of these facts may be given in order to corroborate his evidence as to the robbery itself.

Former statements of witness may be proved to corroborate later testimony as to same facts.

157. In order to corroborate the testimony of a witness, any former statement made by such witness relating to the same fact at or about the time when the fact took place, or before any authority legally competent to investigate the fact, may be proved.

158. Whenever any statement, relevant under Section 32 or 33, is proved, all matters may be proved either in order to contradict or to corroborate it, or in order to impeach or confirm the credit of the person by whom it was made, which might have been proved if that person had been called as a witness and had denied upon cross-examination the truth of the matter suggested.

What matters may be proved in connection with proved statement relevant under Section 32 or 33.

159. A witness may, while under examination, refresh his memory by referring to any writing made by himself at the time of the transaction concerning which he is questioned, or so soon afterwards that the Court considers it likely that the transaction was at that time fresh in his memory.

Refreshing memory.

The witness may also refer to any such writing made by any other person, and read by the witness within the time aforesaid, if when he read it he knew it to be correct.

Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the Court, refer to a copy of such document:

When witness may use copy of document to refresh memory.

Provided the Court be satisfied that there is sufficient reason for the non-production of the original.

An expert may refresh his memory by reference to professional treatises.

160 A witness may also testify to facts mentioned in any such document as is mentioned in Section 159, although he has no specific recollection of the facts themselves, if he is sure that the facts were correctly recorded in the document.

Testimony to facts stated in document mentioned in Section 159.

Illustration.

A book-keeper may testify to facts recorded by him in books regularly kept in the course of business, if he knows that the books were correctly kept, although he has forgotten the particular transactions entered.

161. Any writing referred to under the provisions of the two last preceding sections must be produced and shown to the adverse party if he requires it: such party may, if he pleases, cross-examine the witness thereupon.

Right of adverse party as to writing used to refresh memory.

162. A witness summoned to produce a document shall, if it is in his possession or power, bring it to Court, notwithstanding any objection which there may be to its production or to its admissibility. The validity of any such objection shall be decided on by the Court.

Production of documents.

The Court, if it sees fit, may inspect the document, unless it refers to matters of State, or take other evidence to enable it to determine on its admissibility.

If for such a purpose it is necessary to cause any document to be translated, the Court may, if it thinks fit; direct the translator to keep the contents secret, unless the document is to be given in evidence: and, if the interpreter disobeys such direction, he shall be held to have committed an offence under Section, 158 of the Travancore Penal Code.

Translation of documents.

163. When a party calls for a document which he has given the other party notice to produce, and such document is produced and inspected by the party calling for its production, he is bound to give it as evidence if the party producing it requires him to do so.

Giving as evidence, of document called for and produced on notice.

164. When a party refuses to produce a document which he has had notice to produce, he cannot afterwards use the document, as evidence without the consent of the other party or the order of the Court.

Using, as evidence, of document production of which was refused on notice.

Illustration.

A sues B on an agreement and gives B notice to produce it. At the trial A calls for the document and B refuses to produce it. A gives secondary evidence of its contents. B seeks to produce the document itself to contradict the secondary evidence given by A, or in order to show that the agreement is not stamped. He cannot do so.

165. The Judge may, in order to discover or to obtain proper proof of relevant facts, ask any question he pleases, in any form, at any time, of any witness, or of the parties about any fact relevant or irrelevant; and may order the production of any document or thing: and neither the parties nor their agents shall be entitled to make any objection to any such question or order, nor, without the leave of the Court, to cross-examine any witness upon any answer given in reply to any such question :

Judge's power to put questions or order production.

Provided that the judgment must be based upon facts declared by this Act to be relevant, and duly proved ;

Provided also that this section shall not authorise any Judge to compel any witness to answer any question or to produce any document which such witness would be entitled to refuse to answer or produce under Sections 121 to 131, both inclusive, if the question were asked or the document were called for by the adverse party; nor shall the Judge ask any question which it would be improper for any other person to ask under Section 148 or 149; nor shall he dispense with primary evidence of any document, except in the cases hereinbefore excepted.

CHAPTER XI.

Of Improper Admission and Rejection of Evidence.

No new trial for improper admission or rejection of evidence.

166. The improper admission or rejection of evidence shall not be ground of itself for a new trial or reversal of any decision in any case, if it shall appears to the Court before which such objection is raised that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence had been received, it ought not to have varied the decision.

Statement of Objects and Reasons.

In the Report of the Laws Delays Commissioner it was recommended that the law relating to evidence in the State may be codified. A Bill has been therefore drafted. The Bill follows closely the provisions of the British Indian Evidence Act.

S. KRISHNA PILLAI,

Legal Remembrancer

Annexure XI.

R. O. C. No. 339 of 41/Legis.

The following Bill, together with the Statement of Objects and Reasons, is published, as ordered by the Dewan, under Rule 31 of the Travancore Legislative Rules.

(By order.)

Huzür Cutcherry, M. K. NILAKANTA AIYAR,
Trivandrum, 14th March 1941. *Chief Secretary to Government.*

THE TRAVANCORE PENAL CODE (AMENDMENT) Bill.

Whereas it is expedient further to amend the Travancore Penal Code (Act I of 1074 as amended by Acts I of 1089, IV of 1094, IX of 1097, III of 1107, I of 1110 and III of 1114) for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. (i) This Act may be called "The Travancore Penal Code (Amendment) Act 1116." Short title and commencement.

(ii) It shall come into force at once.

2. Sections 50 and 51 of the Travancore Penal Code (hereinafter referred to as the said Code) shall be omitted. Repealing of Sections 50 and 51, Act I of 1074.

3. After Section 98 of the said Code, the following section shall be inserted, namely :— Insertion of a new Section 98-A after Section 98, Act I of 1074.

"98-A. A person abets an offence within the meaning of this Code, who in Travancore, abets the commission of any act without and beyond Travancore which would constitute an offence, if committed in Travancore. Abetment in Travancore of offences outside it.

Illustration.

A in Travancore instigates B in Tinnevelly to commit a murder in Tinnevelly. A is guilty of abetting murder.

4. After Chapter V of the said Code, the following shall be inserted, namely :— Insertion of a new Chapter V-A, Act I of 1074.

CHAPTER V—A.

CRIMINAL CONSPIRACY.

Definition of criminal conspiracy.

"110-A. When two or more persons agree to do, or cause to be done—

(i) an illegal act, or

(ii) an act, which is not illegal, by illegal means, such an agreement is designated a criminal conspiracy: Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation: It is immaterial whether the illegal act is the ultimate object of such agreement or is merely incidental to that object.

Punishment of criminal conspiracy.

110-B. (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both."

Amendment of Sections 112 and 114, Act I of 1074.

5. In Sections 112 and 114 of the said Code, for the words "shall forfeit all his property," the words "shall also be liable to forfeiture of his property" shall be substituted.

Amendment of Section 113, Act I of 1074.

6. In Section 113 of the said Code—

(i) after the word "Whoever," the words "within or without Travancore" shall be inserted, and

(ii) after the word "years" the words "and shall also be liable to forfeiture of his property" shall be added.

Amendment of the heading to Chapter VII, Act I of 1074.

7. In the heading to Chapter VII of the said Code after the word "Army" the words "Navy and Air Force" shall be added.

8. In Section 124 of the said Code— Amendment of Section 124, Act I of 1074.

(i) for the words "or soldier," wherever they occur, the words "soldier, sailor or airman" shall be substituted,

(ii) for the word "Army," the words "Army, Navy, or Air Force" shall be substituted,

(iii) for the words "Our Nayar Brigade or Body Guard," the words "Our State Forces" shall be substituted, and

(iv) for the words "and soldier" occurring in the Explanation, the words "soldier, sailor and airman" shall be substituted.

9. In Sections 125, 126, 127, 128, 129, 130, 132 and 508 clause (*a*) of the said Code— Amendment of Sections 125, 126, 127, 128, 129, 130, 132, & 508, Act I of 1074.

(i) for the words "or soldier" the words "soldier, sailor or airman" shall be substituted,

(ii) for the word "Army," the words "Army, Navy or Air Force" shall be substituted, and

(iii) for the words "Our Nayar Brigade or Body Guard" the words "Our State Forces" shall be substituted.

10. In Section 131 of the said Code — Amendment of Section 131, Act I of 1074.

(i) after the word "soldier" wherever it occurs, the words "sailor or airman" shall be inserted,

(ii) after the word "Military," the words "Naval or Air Force" shall be inserted, and

(iii) for the words "Our Nayar Brigade or Body Guard" the words "Our State Forces" shall be substituted.

11. In Section 169 of the said Code a semicolon shall be substituted for the fullstop occurring at the end of the second para and the following shall be added as the third para, namely:— Amendment of Section 169, Act I of 1074.

"or if the notice or information required to be given is required by an order passed under the first para of Section 434 of the Code of Criminal Procedure with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both."

12. In Section 182, paragraph 1, of the said Code — Amendment of Section 182, Act I of 1074.

(1) for the words "given by Our Government in any Proclamation or Rule, published in the Government Gazette" the following shall be substituted, namely:—

"contained

(i) in any Royal Proclamation, or

(ii) in any Rule or Notification made by Our Government, and published in Our Government Gazette."

(2) for the words "creation and use of new places," the words "creation or use of any place" shall be substituted;

(3) for the words "or the conduct of processions" the following words shall be substituted, namely :—

"or cemetery or crematorium,"

(4) in Explanation I after the word "building," the words "or any part thereof" shall be inserted; and

(5) after the Explanation II the following Explanations shall be added, namely :—

"Explanation III.—"Cemetery" includes any place set apart for the disposal of dead bodies of human beings by burial.

Explanation IV.—"Crematorium" means any place set apart for the disposal of dead bodies of human beings by burning."

Substitution of new Section for Section 290, Act I of 1074.

13. For Section 290 of the said Code, the following shall be substituted, namely :—

"290. Whoever—

Sale etc., of obscene books etc.

(a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation or for purposes of sale, hire, distribution, public exhibition, or circulation, makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or

(b) imports, exports or conveys any obscene object for any of the purposes aforesaid or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or

(c) takes part in, or receives profits from any business in the course of which he knows or has reason to believe that such obscene objects are for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or

(d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through any person, or

(*e*) offers or attempts to do any act which is an offence under this section,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine or with both.

Exception.—This section does not extend to any book, pamphlet, writing, drawing or painting kept or used bona-fide for religious purposes, or any representation, sculptured, engraved, painted or otherwise represented on or in any temple, or any car used for the conveyance of idols, or kept or used for any religious purpose."

14. For Section 291 of the said Code, the following shall be substituted, namely :— Substitution of a new Section for Section 291, Act I of 1074.

"291. Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object as is referred to in the last preceding section, or offers or attempts so to do, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both."

Sale etc., of obscene object to young persons.

15. In Section 375 of the said Code,— Amendment of Section 375, Act I of 1074.

(*a*) in Clause Fifthly, for the word "twelve" the word "fourteen" shall be substituted; and

(*b*) in the Exception, for the word "twelve" the word "thirteen" shall be substituted.

16. In Section 406, after illustration (*d*) of the said Code, the following illustrations shall be added, namely :— Insertion of new illustrations to Section 406, Act I of 1074.

"(*e*) A, residing in Kottayam, is agent for Z residing at Trivandrum. There is an express or implied contract between A and Z that all sums remitted by Z to A shall be invested by A according to Z's direction. Z remits a lakh of rupees to A with direction to A to invest the same in Treasury Bills. A dishonestly disobeys the direction and employs the money in his own business. A has committed criminal breach of trust.

(*f*) But if A in the last illustration not dishonestly but in good faith believing that it will be more for Z's advantage to hold shares in Government Debentures, disobeys Z's directions and buys Government Debentures for Z instead of buying Company's paper here

though Z should suffer loss and should be entitled to bring a civil action against A on account of that loss, yet A not having acted dishonestly has not committed criminal breach of trust."

Amendment of Section 461, Act I of 1074.

17. In Section 461 of the said Code, after the word "causes" the word "grievous" shall be inserted.

Amendment of Section 514, Act I of 1074.

18. In Section 514 of the said Code,—

(i) after the word "punishable" the words "by this Code" shall be inserted.

(ii) after the word "committed" the following words shall be inserted, namely :—

"and in such attempt does any act towards the commission of the offence" and

(iii) Explanations II shall be omitted, and the succeeding explanations shall be renumbered.

Statement of objects and reasons.

The Indian Penal Code on which is based the Travancore Penal Code has undergone material alterations made from time to time by the British Indian Legislature. The question of adoptting similar changes in the Travancore Penal Code was under consideration for sometime past. The sub-joined Notes on Clauses explain briefly the extent to which these changes are proposed to be adopted.

Notes on Clauses.

Clauses 2 and 5:— The law of forfeiture of the property of convicted persons is now contained in Sections 50, 51, 112 and 114. These correspond to Sections 61, 62, 121, and 122 respectively of the Indian Penal Code. The provisions of Sections 61 and 62 were repealed and the provisions contained in Sections 121 and 122 relating to compulsory forfeiture were substantially altered by Act XVI of 1921 of British India. In England forfeiture was abolished as early as 1870 and the general trend of legislation is in favour of exempting from direct liability the properties of the offender except for purposes of recovery of fines. Clause 2 proposes to omit Sections 50 and 51 from the Code and Clause 5 proposes to make it optional for the Court to order forfeiture.

Clause 3:— proposes to adopt a provision similar to Section 108-A of the Indian Penal Code. It merely puts in statutory form a principle which is being followed in Travancore.

Clause 4 :—enacts a new chapter dealing with the matter of criminal conspiracy and the punishment therefor. It is modelled on Chapter V-A of the Indian Penal Code. As in the British Indian law, a safeguard is provided in that in the case of conspiracies other than a conspiracy to commit an offence, some overt act is necessary to bring the conspiracy within the purview of the criminal law.

Clause 6 :—extends the application of Section 113 of the Code to conspiracies even when they take place beyond the limits of Travancore. The clause prescribes for a sentence of forfeiture of property of the offender so as to make it conform to the provisions of Sections 112 and 114.

Clauses 7, 8, 9 and 10 :—enact mere verbal amendments.

Clause 11 :—Non-compliance with an order under Section 434 is specifically made penal.

Clause 12 :—The decisions bearing on the provisions of Section 182 are conflicting and have rendered the provisions of the section practically ineffective and a comprehensive amendment relating to cemetery and crematorium alike is proposed. The provision in the section relating to public procession has been omitted as there is ample provision for it in the Police Act.

Clause 13 and 14 :—re-enact Sections 290 and 291 of the Code in grenter detail. They are modelled after Sections 292 and 293 of the Indian Penal Code. The latter were enacted in their present form by the Obscene Publication Act, 1925 with a view to give effect to the International Convention for the suppression of circulation and traffic in obscene publications drafted by the International Conference which met at Geneva under the auspices of the League of Nations on the 31st August 1923.

Clause 15 :—raises the age limit of a girl who consents to sexual intercourse from 12 to 14. The limit is the same in ritish India. So also the age of consent in the case of a wife is proposed to be raised from 12 to 13.

Clause 16 :—Two illustrations are added to indicate the application of Section 406. They deal with cases of criminal breach of trust for which there is an express or implied contract between the parties.

Clanse 17 :—corrects an obvious mistake.

Clause 18 :—brings Section .514 into conformity with Section 511 of the Indian Penal Code. The Explanations except Explanation 2 have been retained for greater clearness in practical working.

S. KRISHNA PILLAI,
Legal Remembrancer.

Annexure XII.

R. O. C. No. 366 of 41/Legis.

The following Bill, together with the Statement of Objects and Reasons, is published as ordered by the Dewan, under Rule 31 of the Travancore Legislative Rules.

(By order),

Huzur Cutcherry, Trivandrum, 17th March 1941.

M. K. NILAKANTA AIYAR,
Chief Secretary to Government.

A BILL TO CONSOLIDATE AND AMEND THE CODE OF CRIMINAL PROCEDURE.

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Whereas it is expedient to consolidate and amend the law relating to Criminal Procedure;

It is hereby enacted as follows :—

PART I.

Preliminary.

CHAPTER I.

Short title, Commencement.

1. (1) This Act may be called the Code of Criminal Procedure; and it shall come into force on...............

Extent.

(2) It extends to the whole of Travancore; but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local law now in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.

Repeal of enactments.

2. (1) On and from..........., the enactments mentioned in the first schedule shall be repealed to the extent specified in the third column thereof, but not so as to restore any jurisdiction or form of procedure not then existing or followed, or to render unlawful the continuance of any confinement which is then lawful.

Notifications, etc., under repealed Acts.

(2) All Notifications published, proclamations issued, powers conferred, forms prescribed, local limits defined, sentences passed and Orders, Rules and appointments made, under any enactment hereby repealed, or under any enactment repealed by any such enactment and which are in force immediately before........................ shall be deemed to have been respectively published, issued, conferred, prescribed, defined, passed and made under the corresponding section of this Code.

References to Code of Criminal Procedure and other repealed enactments.

3. In every enactment passed before this Code comes into force in which reference is made to, or to any chapter or section of, the Code of Criminal Procedure (Act III of 1056) or Act V of 1067, or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding chapter or section.

4. (1) In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context:—

Definitions.

"Bailable offence." "Non-bailable offences."

(a) "bailable offence" means an offence shown as bailable in the second schedule, or which is made bailable by any other law for the time being in force; "and non-bailable offence" means any other offence:

"Charge."

(b) "charge" includes any head of charge when the charge contains more heads than one:

"Cognizable offence." "Cognizable case."

(c) "cognizable offence" means an offence for, and "cognizable case" means a case in, which a police officer, may, in accordance with the second schedule or under any law for the time being in force, arrest without warrant:

"Complaint."

(d) "complaint" means the allegation made orally or in writing to a Magistrate with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but it does not include the report of a police officer:

"European British subject."

(e) "European British subject" means

(i) any subject of His Majesty the King Emperor of India of European descent in the male line born, naturalised or domiciled in the British Islands or any Colony, or

(ii) any subject of His Majesty who is the child or grandchild of any such person by legitimate descent:

"Inquiry."

(f) "inquiry" includes every inquiry other than a trial conducted under this Code by a Magistrate or Court:

"Investigation."

(g) "investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf:

"Judicial proceeding."

(h) "judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath:

"Non cognizable offence." "Non cognizable case."

(i) "non-cognizable offence" means an offence for, and "non-cognizable case" means a case in, which a police-officer may not arrest without warrant:

"offence."

(j) "offence" means any act or omission made punishable by any law for the time being in force:

it also includes any act in respect of which a complaint may be made under Section 20 of the Cattle Trespass Act 1086;

(*k*) "officer in charge of a police-station" includes when the officer in charge of the police-station is absent from the station-house or unable from illness or other cause to perform his duties, the police-officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when Our Government so directs, any other police-officer so present:

"Officer in charge of a police-station."

"Place."

(*l*) "place" includes also a house, building, tent and vessel:

(*m*) "pleader," used with reference to any proceeding in any Court, means a pleader or a mukhtar authorised under any law for the time being in force to practise in such Court, and includes (1) an advocate, a vakil and a pleader so authorised, and (2) any other person appointed with the permission of the Court to act in such proceeding:

"Pleader."

(*n*) "police-station" means any post or place declared, generally or specially, by Our Government to be a police-station and includes any local area specified by Our Government in this behalf:

"Police-station."

(*o*) Public Prosecutor" means any person appointed under Section 403, and includes any person acting under the directions of Public Prosecutor and any person conducting a prosecution on behalf of Our Government.

"Public Prosecutor."

(*p*) "summons-case" means a case relating to an offence, and not being a warrant-case: and

"Summons case."

(*q*) "warrant-case" means a case relating to an offence punishable with death, or imprisonment for a term exceeding six months.

"Warrant case."

(2) Words which refer to acts done, extend also to illegal omissions; and

Words referring to acts.

all words and expressions used herein and defined in the Travancore Penal Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code.

Words to have same meaning as in Travancore Penal Code.

5. (1) All offences under the Travancore Penal Code, shall be investigated, inquired into, tried and otherwise dealt with according to the provisions hereinafter contained.

Trial of offences under Travancore Penal Code.

(2) All offences under any other law shall be investigated, inquired into, tried and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

Trial of offences against other laws.

PART II.

Constitution and Powers of Criminal Courts and Offices.

CHAPTER II.

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES.

Classes of Criminal Courts.

6. Besides the High Court and the Courts constituted under any law other than this Code for the time being in force, there shall be four classes of Criminal Courts in Travancore namely :—

I.—Courts of Session :

II.—Magistrates of the first class :

III.—Magistrates of the second class :

IV.—Magistrates of the third class.

NOTE : This classification does not embrace the Criminal Courts referred to in chapter XXXIII.

Existing Deviations, Districts and other local areas maintained till altered.

7. (1) The Sessions Divisions, Districts and other local areas forming the jurisdictions of the Magistrates, existing at the time this Code comes into force, shall be deemed to have been constituted under it, and their number and limits may, with the sanction of Our Government, be altered from time to time, by Notification in Our Government Gazette.

(2) All Criminal Courts existing when this Code comes into force shall be deemed to have been established under this Code.

Sessions Judge, Additional Sessions Judge.

8. There shall be a Sessions Judge for every Sessions Court. Additional Sessions Judges may be appointed to exercise jurisdiction in one or more such Courts.

District Magistrate.

9. (1) In every District Our Government shall appoint a Magistrate of the first class, who shall be called the District Magistrate.

(2) Our Government may appoint any Magistrate of the first class to be an Additional District Magistrate and such Additional District Magistrate shall have all or any of the powers of a District Magistrate under this Code or under any other law for the time being in force, as Our Government may direct.

(3) For the purposes of Sections 188, sub-section (1), 339, sub-section (2) and 440, sub-sections (1) and (2) such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate.

Officers temporarily succeeding to vacancies in office of District Magistrate.

10. Whenever in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the district, such officer shall, pending the orders of Our Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

Subordinate Magistrates.

11. Our Government may appoint as many persons as it thinks fit, besides the District Magistrate, to be Magistrates of the first, second or third class in any district and Our Government may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

Special Magistrates.

12. (1) Our Government may confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally in any local area.

(2) Such Magistrates shall be called Special Magistrates, and shall be appointed for such term as Our Government may by general or special order direct.

(3) No powers shall be conferred under this section on any police-officer below the grade of Assistant Superintendent, and no powers shall be conferred on a police-officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

Benches of Magistrates.

13. (1) Our Government may direct any two or more Magistrates in any District to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or such classes of cases only, and within such local limits, as Our Government thinks fit.

Powers exercisable by Bench in absence of special direction.

(2) Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members, who is present taking part in the proceedings as a member of the Bench, belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

14. Our Government may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any District respecting the following subjects:—

Power to frame rules for guidance of Benches.

(a) the classes of cases to be tried;

(b) the times and places of sitting;

(c) the constitution of the Bench for conducting trials;

(d) the mode of recording evidence;

(e) the mode of settling differences of opinion which may arise between the Magistrates in session.

15. (1) All Magistrates appointed under Sections 11 and 12 and all Benches constituted under Section 13 shall be subordinate to the District Magistrate, and Our Government may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches; and

Subordination of Magistrates and Benches to District Magistrate.

(2) Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under Sections 11, 12 and 13 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided.

16. The appointments of all Judges and Magistrates and the constitution of Magistrates' Benches under this Code shall be notified in Our Government Gazette.

Appointment of Judges and Magistrates and constitution of Benches to be notified in the Gazette.

Whenever all or any of the powers of a Magistrate conferred upon any person are withdrawn, such withdrawal shall be notified in Our Government Gazette.

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CHAPTER III.

Powers of Courts.

A.—Description of offences cognizable by each Court.

17. Subject to the other provisions of this Code any offence under the Travancore Penal code may be tried—

Offences under Penal Code.

(a) by the Court of Session, or

(*b*) by any other Court by which such offence is shown in the eighth column of the second schedule to be triable.

Illustration.

A is committed to the Sessions Court on a charge of culpable homicide. He may be convicted of voluntarily causing hurt, an offence triable by a Magistrate.

Offences under other laws.

18. (1) Subject to the other provisions of this Code, any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court.

(2) When no Court is so mentioned, it may be tried subject as aforesaid by any Court constituted under this Code by which such offence is shown in the eighth column of the second schedule to be triable.

Jurisdiction in the case of juveniles.

19. Any offence, other than one punishable with death or imprisonment for life, committed by any person who at the date when he appears or is brought before the Court is under the age of fifteen years, may be tried by a District Magistrate or by any Magistrate specially empowered by Our Government to exercise the powers conferred by Section 6, sub-section (1), of the Travancore Reformatory Schools Act, 1099.

B. Sentences which may be passed by Courts of various Classes.

Sentences which High Court and Sessions Judges may pass.

20. (1) The High Court may pass any sentence authorized by law, but sentences of death or imprisonment for life passed or confirmed by that Court shall be subject to Our approval.

(2) A Sessions Judge or Additional Sessions Judge may pass any sentence authorized by law; but any sentence of death or imprisonment for life passed by any such Judge shall be subject to confirmation by the High Court.

Sentences which Magistrates may pass.

21. (1) The Courts of Magistrates may pass the following sentences namely:—

(a) Courts of Magistrates of the first class:	Imprisonment for a term not exceeding two years, including such solitary confinement as is authorized by law. Fine not exceeding one thousand rupees; Whipping.
(b) Courts of Magistrates of the second class:	Imprisonment for a term not exceeding six months, including such solitary confinement as is authorized by law; Fine not exceeding two hundred rupees;
(c) Courts of Magistrates of the third class:	Imprisonment for a term not exceeding one month; Fine not exceeding fifty rupees.

(2) The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorized by law to pass.

Power of Magistrates to sentence to imprisonment in default of fine.

22. (1) The Court of any Magistrate may award such terms of imprisonment in default of payment of fine as is authorized by law in case of such default:

Provided that—

Proviso as to certain cases.

(a) the term is not in excess of the Magistrate's powers under this Code;

(b) in any case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence, the period of imprisonment awarded in default of payment of the fine shall not exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under Section 21.

Sentence in cases of conviction of several offences at one trial.

23. (1) When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of Section 60 of the Travancore Penal Code, sentence him, for such offences, to the several punishments prescribed therefor which such Court is competent to inflict; such punishments, when consisting of imprisonment to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

(2) In the case of consecutive sentences, it shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court;

Provided as follows :—

Maximum term of punishment.

(a) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years:

(b) if the case is tried by a Magistrate, the aggregate punishment shall not exceed twice the amount of punishment which he is, in the exercise of his ordinary jurisdiction, competent to inflict.

(3) For the purpose of appeal, the aggregate of consecutive sentences passed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.

C.—Ordinary and Additional Powers.

24. All District Magistrates and Magistrates of the first, second and third classes, have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers."

Ordinary powers of Magistrates.

25. In addition to his ordinary powers, any Magistrate of the first, second or third class may be invested by Our Government with any powers specified in the fourth schedule as powers with which he may be invested by Our Government.

Additional powers conferrable on Magistrates.

D - Conferment, Continuance and Cancellation of Powers.

26. (1) In conferring powers under this Code Our Government may by order, empower persons specially by name or in virtue of their office or classes of officials generally by their official titles.

Mode of conferring powers.

(2) Every such order shall take effect from the date on which it is communicated to the person so empowered.

27. Whenever any person holding an office in the service of Our Government who has been invested with any powers under this Code throughout any local area is appointed to an equal or higher office of the same nature, within a like local area he shall unless Our Government otherwise directs, or has otherwise directed, exercise the same powers in the local area in which he is so appointed.

Powers of officers appointed.

28. Our Government may withdraw all or any of the powers conferred under this Code on any person by it.

Powers may be cancelled.

PART III.

General Provisions.

CHAPTER IV.

OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARRESTS.

29. Every person is bound to assist a Magistrate or police officer reasonably demanding his aid,

Public when to assist Magistrate and police.

(*a*) in the taking or preventing the escape of any other person whom such Magistrate or police officer is authorized to arrest;

(*b*) in the prevention or suppression of a breach of the peace or in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

Aid to person other than police officer, executing warrant.

30. When a warrant is directed to a person other than a police officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

Public to give information of certain offences.

31. (1) Every person, aware of the commission of, or of the intention of any other person to commit any offence punishable under any of the following sections of the Travancore Penal Code namely, 111, 112, 113, 114, 115, 116, 117, 118, 119, 123, 135, 136, 137, 139, 140, 301, 302, 303, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 436, 437, 451, 452, 458, 459, 460, 461 and 462, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police officer of such commission or intention.

(2) For the purposes of this section the term "offence" includes any act committed at any place in British India or in any Indian State which would constitute an offence if committed in Travancore.

Land holders and others bound to report certain matters

32. (1) Every owner or occupier of land, and the agent of any such owner or occupier in charge of the management of that land, and every officer employed in the collection of revenue or rent of land on the part of Government, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police station, whichever is the nearer, any information which he may possess respecting—

(*a*) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village in which he owns or occupies land, or is agent, or collects revenue or rent;

(*b*) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects to be a thug, robber, escaped convict or proclaimad offender;

(*c*) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 135, 136, 137, 139 or 140 of the Travancore Penal Code;

(*d*) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person;

(e) the commission of, or intention to commit, at any place in British India or in any Indian State, near such village any act which, if committed in Travancore would be an offence punishable under any of the following sections of the Travancore Penal Code, namely, 228, 229, 230, 231, 232, 233, 234, 235, 301, 303, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 436, 437, 451, 462 492A, 492B, 492C and 492D;

(f) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which Our Government has, directed him to communicate information by general or special order;

(2). In this section—

(i) "village" includes village-lands; and

(ii) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established by Us in any part of Travancore or by the Governor General in Council in any Part of India, in respect of any act which, if committed in Travancore would be punishable under any of the following sections of the Travancore Penal Code namely, 111, 301, 303, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 436, 437, 451, 452, 459, 460, 461 and 462.

CHAPTER V.

Of Arrest, Escape and Retaking

A—Arrest generally.

Arrest how made.

33. (1) In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting endeavour to arrest.

(2) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police officer or other person may use all means necessary to effect the arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for life.

Search of place entered by person sought to be arrested.

34. If any person acting under a warrant of arrest, or any police officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, the person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police officer allow him free ingress thereto, and afford all reasonable facilities for a search therein.

35. If ingress to such place cannot be obtained under section 34 it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police-officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance;

Procedure where ingress not obtainable.

Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) such person or police-officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

Breaking open zanana.

36. Any police-officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

Power to break open doors and windows for purposes of liberation.

37. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

No unnecessary restraint.

38. Whenever a person is arrested by a police-officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

Search of arrested persons.

whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the police-officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him.

39. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

Mode of searching women.

40. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

Power to seize offensive weapons.

B.—Arrest without Warrant.

When police may arrest without warrant.

41. Any police-officer may, without an order from a Magistrate and without a warrant, arrest—

firstly, any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned;

secondly, any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking;

thirdly, any person who has been proclaimed as an offender either under this Code or by order of Our Government;

fourthly, any person in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing;

fifthly, any person who obstructs a police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;

sixthly, any person reasonably suspected of being a deserter from His Majesty the King Emperor's Army, Navy or Air Force or from Our State Forces or Our Body Guard;

seventhly, any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed in British India, or in any Indian State which, if committed in Travancore, would have been punishable as an offence, and for which he is under any law relating to extradition or otherwise, liable to be apprehended or detained in custody in Travancore;

eighthly, any released convict committing a breach of any rule made under section 474, sub-section (3);

ninthly, any person for whose arrest a requisition has been received from another police-officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

42. Any officer in charge of a police station may, in like manner, arrest or cause to be arrested—

Arrest of vagabonds, habitual robbers, etc.

(*a*) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence ; or

(*b*) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself ; or

(*c*) any person who is by repute an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury.

43. When any officer in charge of a police-station or any police-officer making an investigation under Chapter XIV requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made. The officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order.

Procedure when police-officer deputes subordinate to arrest without warrant.

44. (1) When any person who in the presence of a police-officer has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

Refusal to give name and residence.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required:

Provided that, if such person is not resident in Travancore, the bond shall be secured by a surety or sureties resident in Travancore.

(3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest or should he fail to execute the bond, or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

45. A police-officer may, for the purpose of arresting without warrant any person whom he is authorized to arrest under this Chapter, pursue such person into any place in Travancore.

Pursuit of offenders into other jurisdictions.

46. (1) Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or any proclaimed offender, and without unnecessary delay, shall make over any person so arrested to a police-officer, or, in the absence of a police-officer, take such person or cause him to be taken in custody to the nearest police station.

Arrest by private persons and procedure on such arrest.

(2) If there is reason to believe that such person comes under the provisions of section 41 a police officer shall re-arrest him.

(3) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 44. If there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

47. A police-officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police-station.

Person arrested to be taken before Magistrate or officer in charge of police station.

48. No police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 165, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

Person arrested not to be detained more than twenty-four hours.

49. Officers in charge of police-stations shall report without delay to the District Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

Police to report apprehensions.

50. (1) No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

Discharge of person apprehended.

(2) Whenever an arrested person is discharged by a police officer under this section, otherwise than under a special order of a Magistrate, such officer shall at once make a report of the fact to the District Magistrate, and if the discharge was made when the arrested person was detained under an order from a Magistrate, other than a District Magistrate, the police officer shall also make a report to the Magistrate who authorised the detention of such person.

51. When any offence is committed in the presence of a Magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail commit the offender to custody.

Offence committed in Magistrate's presence.

52. Any Magistrate may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

Arrest by or in presence of Magistrate.

53. If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in Travancore.

Power, on escape, to pursue and retake.

54. The provisions of sections 34, 35 and 36 shall apply to arrests under section 53, although the person making any such arrest is not acting under a warrant and is not a police-officer having authority to arrest.

Provisions of sections 34, 35 and 36 to apply to arrests under section 53.

CHAPTER VI.

Of Processes to compel Appearance.

A—Summons.

55. (1) Every summons issued by a Court under this Code shall be in writing in duplicate, signed and sealed by the presiding officer of such Court, or by such other officer as Our High Court may, from time to time, by rule, direct.

Form of summons.

(2) Such summons shall be served by a police-officer, or subject to such rules as Our Government may prescribe in this behalf, by an officer of the Court issuing it or other public servant.

Summons by whom served.

56. (1) The summons shall, if practicable, be served personally on the person summoned, by delivering, or tendering to him one of the duplicates of the summons.

Summons how served.

(2) Every person on whom a summons is so served shall sign a receipt therefor on the back of the other duplicate.

Signature of receipt for summons.

(3) Service of a summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered

Post or Anchal letter addressed to the chief officer of the corporation in Travancore. In such case the service shall be deemed to have been effected when the letter would arrive in ordinary course of Post or Anchal.

Service when person summoned cannot be found.

57. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family; and the person with whom the summons is so left shall sign a receipt therefor on the back of the other duplicate.

Procedure when service cannot be effected as before provided.

58. If service in the manner mentioned in sections 56 and 57 cannot by the exercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides ; and thereupon the summons shall be deemed to have been duly served.

Endorsement to be made by serving officer.

59. The serving officer shall state truly, by endorsement on the original summons, the date on, and the manner in which, he served the summons under sections 56 and 57 and the circumstances under which he affixed the duplicate under section 58.

Service on servant of Government or of Railway Company.

60. (1) Where the person summoned is in the active service of Our Government or of a Railway Company, the Court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 56 and shall return it to the Court under his signature with the endorsement required by that section.

(2) Such signature shall be evidence of due service.

Service of summons outside local limits.

61. When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is, to be there served.

Proof of service in such cases and when serving officer not present.

62. (1) When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in manner provided by section 56 or section 57 or section 58) by the person to whom it was delivered or tendered

or with whom it was left shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

(2) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

B.—Warrant of Arrest.

Form of warrant of arrest.

63. (1) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or in the case of a Bench of Magistrates, by any member of such Bench; and shall bear the seal of the Court.

Continuance of warrant of arrest.

(2) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

Court may direct security to be taken.

64. (1) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(2) The endorsement shall state—

(*a*) the number of sureties;

(*b*) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound; and

(*c*) the time at which he is to attend before the Court.

Recognizance to be forwarded.

(3) Whenever security is taken under this section the officer to whom the warrant is directed shall forward the bond to the Court.

Warrants to whom directed.

65. (1) A warrant of arrest shall ordinarily be directed to one or more police-officers; but the Court issuing such a warrant may, if its immediate execution is necessary and no police-officer is immediately available, direct it to any other person or persons; and such person or persons shall execute the same.

Warrants to several persons.

(2) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more of them.

Warrant may be directed to land-holders etc

66. (1) A District Magistrate may direct a warrant to any land-holder, farmer or manager of land within his district for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.

(2) Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant and shall execute it if the person for whose arrest it was issued, is in, or enters on, his land or farm, or the land under his charge.

(3) When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest police-officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 64

Warrant directed to police-officer.

67. (1) A warrant directed to any police-officer may also be executed by any other police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

(2) Any Police officer executing a warrant under this section may take security for appearance as provided in section 64.

Notification of substance of warrant.

68. The police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

Person arrested to be brought before Court without delay.

69. The police-officer or other person executing a warrant of arrest shall (subject to the provisions of section 64 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.

Where warrant may be executed.

70. A warrant of arrest may be executed at any place in Travancore.

Warrant forwarded for execution outside jurisdiction.

71. (1) When a warrant is to be executed outside the local limits of the jurisdiction of the Court issuing the same, such Court may, instead of directing such warrant to a police-officer, forward the same by post or otherwise to any Magistrate, or the District Superintendent of Police, within the local limits of whose jurisdiction it is to be executed.

(2) The Magistrate or the District Superintendent to whom such warrant is so forwarded shall endorse his name thereon and, if practicable, cause it to be executed in manner hereinbefore provided within the local limits of his jurisdiction.

Warrant directed to police-officer for execution outside jurisdiction.

72. (1) When a warrant directed to a police-officer is to be executed beyond the local limits of the jurisdiction of the Court issuing the same, he shall ordinarily take it for endorsement either to a Magistrate or to a police-officer not below the rank of an officer in charge of a station, within the local limits of whose jurisdiction the warrant is to be executed.

(2) Such Magistrate or police-officer shall endorse his name thereon and such endorsement shall be sufficient authority to the

police-officer to whom the warrant is directed to execute the same within such limits, and the local police shall, if so required, assist such officer in executing such warrant.

(3) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate or police-officer within the local limits of whose jurisdiction the warrant is to be executed, will prevent such execution, the police-officer to whom it is directed may execute the same without such endorsement in any place beyond the local limits of the jurisdiction of the Court which issued

73. When a warrant of arrest is executed outside the district in which it was issued, the person arrested shall, unless the Court which issued the warrant is within twenty miles of the place of arrest or is nearer than the Magistrate or the District Superintendent of Police within the local limits of whose jurisdiction the arrest was made, or unless security is taken under section 64, be taken before such Magistrate or District Superintendent.

Procedure on arrest of person against whom warrant issued.

74. (1) Such Magistrate or District Superintendent shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court:

Procedure by Magistrate before whom person arrested is brought.

Provided that, if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate, or District Superintendent or a direction has been endorsed under section 64 on the warrant and such person is ready and willing to give the security required by such direction, the Magistrate, or District Superintendent shall take such bail or security, as the case may be, and forward the bond to the Court which issued the warrant.

(2) Nothing in this section shall be deemed to prevent a police-officer from taking security under section 64.

C.—Proclamation and Attachment.

75. (1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

Proclamation for person absconding.

(2) The proclamation shall be published as follows :—

(*a*) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(*b*) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village; and

(*c*) a copy thereof shall be affixed to some conspicuous part of the Court-house.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

76. (1) The Court issuing a proclamation under section 75 may at any time order the attachment of any property, moveable or immoveable, or both, belonging to the proclaimed person.

Attachment of property of person absconding.

(2) Such order shall authorize the attachment of any property belonging to such person within the District in which it is made; and it shall authorize the attachment of any property belonging to such person without such district when endorsed by the District Magistrate within whose district such property is situate.

(3) If the property ordered to be attached is a debt or other moveable property, the attachment under this section shall be made :—

(*a*) by seizure; or
(*b*) by the appointment of a receiver; or
(*c*) by an order in writing prohibiting the delivery of such property to the proclaimed person or to any one on his behalf; or
(*d*) by all or any two of such methods, as the Court thinks fit.

(4) If the property ordered to be attached is immoveable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the Division Peishkar of the District in which the land is situate, and in all other cases—

(*a*) by taking possession; or
(*b*) by the appointment of a receiver; or
(*c*) by an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person or to any one on his behalf; or
(*d*) by all or any two of such methods, as the Court thinks fit.

(5) If the property ordered to be attached consists of live-stock or is of a perishable nature, the Court may, if it thinks it expedient, order immediate sale thereof, and in such case the proceeds of the sale shall abide the order of the Court.

(6) The powers, duties and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed under the Code of Civil Procedure for the time being in force.

(7) If any claim is preferred to, or objection made to the attachment of, any property attached under this section within six months from the date of such attachment, by any person other than the proclaimed person, on the ground that the claimant or objector has an interest in such property, and that such interest is not liable to

attachment under the section, the claim or objection shall be inquired into, and may be allowed or disallowed in whole or in part:

Provided that any claim preferred or objection made within the period allowed by this sub-section may, in the event of the death of the claimant or objector, be continued by his legal representative.

(8) Claims or objections under sub-section (7) may be preferred or made in the Court by which the order of attachment is issued or if the claim or objection is in respect of property attached under an order endorsed by a District Magistrate in accordance with the provisions of sub-section (2), in the Court of such Magistrate.

(9) Every such claim or objection shall be inquired into by the Court in which it is preferred or made:

Provided that, if it is preferred or made in the Court of a District Magistrate, such Magistrate may make it over for disposal to any Magistrate of the first class subordinate to him.

(10) Any person whose claim or objection has been disallowed in whole or in part by an order under sub-section (7) may, within a period of one year from the date of such order, institute a suit to establish the right which he claims in respect of the property in dispute; but subject to the result of such suit, if any, the order shall be conclusive.

(11) If the proclaimed person appears within the time specified in the proclamation, the Court shall make an order releasing the property from the attachment.

(12) If the proclaimed person does not appear within the time specified in the proclamation the property under attachment shall be at the disposal of Our Government; but it shall not be sold until the expiration of six months from the date of the attachment and until any claim preferred or objection made under sub-section (7) has been disposed of under that sub-section, unless it is subject to speedy and natural decay, or the Court considers that the sale would be for the benefit of the owner, in either of which cases the Court may cause it to be sold whenever it thinks fit.

Restoration of attached property.

77. If, within two years from the date of the attachment, any person whose property is or has been at the disposal of Government, under sub-section (12) of section 76, appears voluntarily or is apprehended and brought before the Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himslf for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or, if the same has been sold, the nett proceeds of the sale, or, if part only thereof has been sold, the nett proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

D.– Other rules regarding Processes.

Issue of warrant in lieu of, or in addition to, summons.

78. A Court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person issue, after recording its reasons in writing, a warrant for his arrest:—

(*a*) if, either before the issue of such summons, or after the issue of the same but before the time fixed for his appearance, the Court sees reason to believe that he has absconded or will not obey the summons; or

(*b*) if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

Power to take bond for appearance.

79. When any person for whose appearence or arrest the officer presiding in any Court is empowered to isssue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court.

Arrest on breach of bond for appearance.

80. When any person who is bound by any bond taken under this Code to appear before a Court, does not so appear, the officer presiding in such Court may issue a warrant directing that such person be arrested and produced before him.

Provisions of this Chapter generally applicable to summonses and warrants of arrest.

•81. The provisions contained in this Chapter relating to a summons and warrant and their issue, service and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

CHAPTER VII.

OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND OTHER MOVEABLE PROPERTY, AND FOR THE DISCOVERY OF PERSONS WRONGFULLY CONFINED.

A. Summons to produce.

Summons to produce document or other thing.

82. (1) Whenever any Court, or any officer in charge of a police-station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order,

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed to affect the Travancore Evidence Act, sections 123 and 124, or to apply to a letter, Anchal card, or other document or any parcel or thing in the custody of Our Anchal or Telephone authorities.

Procedure as to letters.

83. (1) If any document, parcel or thing in such custody is, in the opinion of any District Magistrate, or Court of Session or Our High Court wanted for the purpose of any investigation, inquiry, trial or other proceeding under this Code such Magistrate or Court may require the Anchal or Telephone authorities, as the case may be, to deliver such document, parcel or thing to such person as such Magistrate or Court directs.

(2) If any such document, parcel or thing is, in the opinion of any other Magistrate, or District Superintendent of Police, wanted for any such purpose, he may require the Anchal or Telephone authority as the case may be, to cause search to be made for and to detain such document, parcel or thing pending the orders of any such District Magistrate or Court.

B.—Search-warrants.

When search-warrant may be issued.

84. (1) Where any Court has reason to believe that a person to whom a summons or order under section 82 or a requisition under section 83, sub-section (1), has been or might be addressed, will not or would not produce the document or thing as required by such summons or requisition,

or where such document or thing is not known to the Court to be in the possession of any person,

or where the Court considers that the purposes of any inquiry, trial or other proceeding under this Code will be served by a general search or inspection,

it may issue a search-warrant; and the person to whom such warrant is directed, may search or inspect in accordance therewith and with the provisions hereinafter contained.

(2) Nothing herein contained shall authorize any Magistrate other than a District Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of Our Anchal or Telephone authorities.

Power to restrict warrant.

85. The Court may, if it thinks fit specify in the warrant the particular place or part thereof to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

Search of house suspected to contain stolen property, forged documents, etc.

86. If a District Magistrate, or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property,

or for the deposit or sale or manufacture of forged documents, false seals or counterfeit stamps or coin, or instruments or materials for counterfeiting coin or stamps or for forging,

or that any forged documents, false seals or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps or for forging, are kept or deposited in any place,

or, if a District Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit, sale, manufacture or production of any obscene object such as is referred to in section 290 of the Travancore Penal Code or that any such obscene objects are kept or deposited in any place; he may by his warrant authorize any police officer above the rank of a constable—

(*a*) to enter, with such assistance as may be required, such place, and

(*b*) to search the same in manner specified in the warrant, and

(*c*) to take possession of any property, documents, seals, stamps or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false or counterfeit, and also of any such instruments and materials or of any such obscene objects as aforesaid, and

(*d*) to convey such property, documents, seals, stamps, coins, instruments or materials or such obscene objects before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose thereof in some place of safety, and

(*e*) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or manufacture or keeping of any such property, documents, seals, stamps, coins instruments or materials or such obscene objects knowing or having reasonable cause to suspect the said property to have been stolen or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments or materials to have been forged, falsified or counterfeited or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps or for forging or the said obscene objects to have been or to be intended to be sold, let to hire, distributed, publicly exhibited, circulated, imported or exported.

87. When, in the execution of a search-warrant at any place beyond the local limits of the jurisdiction of the Court which issued the same, any of the things for which search is made, are found, such things, together with the list of the same prepared under the provisions hereinafter contained, shall be immediately taken before the Court issuing the warrant, unless such place is nearer to the Magistrate having jurisdiction therein than to such Court, in which case the list and things shall be immediately taken before such Magistrate; and, unless there be good cause to the contrary, such Magistrate shall make an order authorizing them to be taken to such Court.

Disposal of things found in search beyond jurisdiction.

Power to declare certain publications forfeited, and to issue search warrants for the same.

88. (1) Where—

(a) any newspaper or book as defined in the Travancore Press Act II of 1079, or

(b) any document, wherever printed or otherwise produced, appears to Our Government to contain any seditious matter or any matter which promotes or is likely to promote feelings of enmity or hatred between different classes of Our subjects or which is likely to outrage the religious feelings of any such class by insulting the religion or the religious beliefs of that class or which promotes or is likely to promote the objects of any unlawful Association as defined in the Criminal Law Amendment Act I of 1114, Our Government may, by notification in Our Government Gazette, stating the grounds of its opinion, declare every copy of the issue of the newspaper containing such matter, and every copy of such book or other document, to be forfeited to Our Government and thereupon any Police Officer may seize the same, wherever found in Travancore, and any Magistrate may by warrant authorise any Police Officer not below the rank of Inspector, to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

(2) In sub-section (1) "document" includes also any painting or drawing or photograph or gramaphone record or other visible representation.

89. Any person having any interest in any newspaper, book or other document in respect of which an order of forfeiture has been made under Section 88 may, within two months from the date of such order apply to Our High Court to set aside such order on the ground that the issue of the newspaper, book or other document, in respect of which the order was made, did not contain any matter of the nature described in Section 88. The onus of proving that the issue of the newspaper, book or other document is not of the nature described in Section 88 shall be on the applicant.

Application to High Court to set aside order of forfeiture.

90. Every such application shall be heard and determined by a Full Bench of Our High Court.

Hearing by Full Bench.

91. If, in the opinion of the Full Bench, or when there is a difference of opinion, in the opinion of the majority of the Judges composing the Full Bench, the issue of the newspaper, book or other document in respect of which the application has been made is not in fact of the nature described in Section 88, the Full Bench shall set aside the order of forfeiture.

Order of Full Bench.

92. On the hearing of any such application with reference to any newspaper, any copy of such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or representations contained in such newspaper, in respect of which the order of forfeiture was made.

Evidence to prove nature or tendency of newspapers.

93. Our High Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed, the practice of such Court in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.

Procedure in High Court.

94. No order passed or action taken under section 88 shall be called in question in any Court otherwise than in accordance with the provisions of section 89.

Jurisdiction barred.

C.—Discovery of Persons wrongfully confined.

95. If any District Magistrate or Magistrate of the first class has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

Search for persons wrongfully confined.

D.—General Provisions relating to Searches.

96. The provisions of sections 30, 63, 65, 67, 70, 71 and 72 shall, so far as may be, apply to all search-warrants issued under section 84, section 86, section 88 or section 95.

Direction, etc., of search warrants.

97. (1) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in, or being in charge of such place shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

Persons in charge of closed place to allow search.

(2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 35.

(3) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. If such person is a woman, the directions of section 39 shall be observed.

Search to be made in presence of witnesses.

98. (1) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search and may issue an order in writing to them or any of them so to do.

(2) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses: but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

Occupant of place searched may attend.

(3) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person at his request.

(4) When any person is searched under section 97, sub-section (3), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person at his request.

(5) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 180 of the Travancore Penal Code.

E.—Miscellaneous.

Power to impound document, etc., produced.

99. Any Court may, if it thinks fit, impound any document or thing produced before it under this Code.

Magistrate may direct search in his presence.

100. Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

Time for execution of search-warrants.

101. Except under special circumstances to be duly recorded, all search warrants shall be executed between sun-rise and sun-set.

PART IV.

PREVENTION OF OFFENCES.

CHAPTER VIII.

OF SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR.

A.—Security for keeping the Peace on Conviction.

Security for keeping the peace on conviction.

102. (1) Whenever any person accused of any offence punishable under Chapter VIII of the Travancore Penal Code, other than an offence punishable under section 135, section 141, section 145 A or section 146 thereof, or of assault or other offence involving a breach of the peace, or of abetting the same, or any person accused of committing criminal intimidation, is convicted of such offence before a Court of Sessions, a District Magistrate, or a Magistrate of the first class,

and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace,

such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.

(2) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(3) An order under this section may also be made by an Appellate Court including a Court hearing appeals under section 339 or by Our High Court when exercising its powers of revision.

B.—Security for keeping the Peace in other Cases and security for Good Behaviour.

Security for keeping the peace in other cases.

103. (1) Whenever a District Magistrate, or Magistrate of the first class is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquillity, the Magistrate if in his opinion there is sufficient ground for proceeding may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix.

(2) Proceedings shall not be taken under this section unless either the person informed against or the place where the breach of the peace or disturbance is apprehended, is within the local limits of such Magistrate's jurisdiction, and no proceedings shall be taken before

any Magistrate, other than a District Magistrate, unless both the person informed against and the place where the breach of the peace or disturbance is apprehended, are within the local limits of the Magistrate's jurisdiction.

Procedure of Magistrate not empowered to act under sub-section (1).

(3) When any Magistrate not empowered to proceed under sub-section (1) has reason to believe that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity, and that such breach of the peace or disturbance cannot be prevented otherwise than by detaining such person in custody, such Magistrate may, after recording his reasons, issue a warrant for his arrest (if he is not already in custody or before the Court), and may send him before a Magistrate empowered to deal with the case, together with a copy of his reasons.

(4) A Magistrate before whom a person is sent under sub-section (3) may in his discretion detain such person in custody pending further action by himself under this Chapter.

Security for good behaviour from persons disseminating seditious matter.

104. Whenever a District Magistrate, or Magistrate of the first class specially empowered by Our Government in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits, either orally or in writing or in any other manner intentionally disseminates or attempts to disseminate, or in anywise abets the dissemination of,—

(a) any seditious matter, that is to say, any matter the publication of which is punishable under section 117 of the Travancore Penal Code, or

(b) any matter the publication of which is punishable under section 145 A of the Travancore Penal Code, or

(c) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Travancore Penal Code,

such Magistrate, if in his opinion there is sufficient ground for proceeding may (in manner hereinafter provided) require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

No proceedings shall be taken under this section against the editor, proprietor, printer or publisher of any publication registered under, and edited, printed and published in conformity with the rules laid down in the Travancore Press Act II of 1079 with reference to any matters contained in such publication except by the order or under the authority of Our Government.

Security for good behaviour from vagrants and suspected persons.

105. Whenever a District Magistrate, or Magistrate of the first class receives information—

(a) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction and that there is reason to believe that such person is taking such precautions with a view to committing any offence, or

(b) that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit to fix.

Security for good behaviour from habitual offenders.

106. Whenever a District Magistrate, or a Magistrate of the first class specially empowered in this behalf by Our Government receives information that any person within the local limits of his jurisdiction.—

(a) is by habit a robber, house-breaker, thief or forger, or

(b) is by habit a receiver of stolen property knowing the same to have been stolen, or

(c) habitually protects or harbours thieves or aids, in the concealment or disposal of stolen property, or

(d) habitually commits, or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Travancore Penal Code, or under section 492A, section 492B, section 492C, or section 492D of that Code, or

(e) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or

(f) is so desperate and dangerous as to render his being at large without security hazardous to the community,

such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Magistrate thinks fit to fix.

Provisions as to European vagrant.

107. The provisions of Sections 105 and 106 do not apply to European British Subjects who may be deported as vagrants by Our Government or by any Special Magistrate who may be empowered by us in this behalf.

108. When a Magistrate acting under section 103, section 104, section 105 or section 106 deems it necessary to require any person to show cause under such section he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

Order to be made.

109. If the person in respect of whom such order is made is present in Court, it shall be read over to him or, if he so desires, the substance thereof shall be explained to him.

Procedure in respect of person present in Court.

110. If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is, to bring him before the Court:

Summons or warrant in case of person not so present.

Provided that whenever it appears to such Magistrate, upon the report of a police officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

111. Every summons or warrant issued under section 110 shall be accompanied by a copy of the order made under section 108, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under the same.

Copy of order under section 108 to accompany summons or warrant.

112. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and may permit him to appear by a pleader.

Power to dispense with personal attendance.

113. (1) When an order under section 108 has been read or explained under section 109 to a person present in Court or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant, issued under section 110, the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken and to take such further evidence as may appear necessary.

Inquiry as to truth of information.

(2) Such inquiry shall be made, as nearly as may be practicable where the order requires security for keeping the peace, in the manner hereinafter prescribed for conducting trials and recording evidence in summons-cases; and where the order requires security for good behaviour in the manner hereinafter prescribed for conducting trials and recording evidence in warrant-cases, except that no charge need be framed.

(3) Pending the completion of the inquiry under sub-section (1) the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquillity or the commission of any offence or for the public safety, may, for reasons to be recorded in writing direct the person in respect of whom the order under Section 108 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded:

Provided that —

(*a*) no person against whom proceedings are not being taken under Section 104, Section 105, or Section 106, shall be directed to execute a bond for maintaining good behaviour, and

(*b*) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under Section 108.

(4) For the purpose of this section the fact that a person is an habitual offender or is so desperate and dangerous as to render his being at large without security hazardous to the community may be proved by evidence of general repute or otherwise.

(5) Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate shall think just.

Order to give security.

114. If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the Magistrate shall make an order accordingly:

Provided—

firstly, that no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under Section 108:

secondly, that the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive:

thirdly, that when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

Discharge of person informed against.

115. If, on an inquiry under Section 113, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an entry on the record to that effect, and if such person is in custody only for the purposes of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

C.– Proceedings in all Cases subsequent to Order to furnish Security.

Commencement of period for which security is required.

116. (1) If any person, in respect of whom an order requiring security is made under Section 102 or Section 114 is, at the time such order is made, sentenced to, or undergoing a sentence of, imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

(2) In other cases such period shall commence on the date of such order unless the Magistrate, for sufficient reason, fixes a later date.

Contents of bond.

117. The bond to be executed by any such person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

Power to reject sureties.

118. (1) A Magistrate may refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond:

Provided that, before so refusing to accept or rejecting any such surety, he shall either himself hold an inquiry on oath into the fitness of the surety, or cause such inquiry to be held and a report to be made thereon by a Magistrate subordinate to him.

(2) Such Magistrate shall, before holding inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall in making the inquiry record the substance of the evidence adduced before him.

(3) If the Magistrate is satisfied, after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (1), and the report of such Magistrate (if any) that the surety is an unfit person for the purposes of the bond, he shall make an

order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing:

Provided that, before making an order rejecting any surety who has previously been accepted, the Magistrate shall issue his summons or warrant, as he thinks fit, and cause the person for whom the surety is bound to appear or to be brought before him.

Imprisonment in default of security.

119. (1) If any person ordered to give security under Section 102 or Section 114 does not give such security on or before the date on which the period for which such security is to be given commences, he shall except in the case next hereinafter mentioned, be committed to prison, or, if he is already in prison, be detained in prison until such period expires or until within such period he gives the security to the Court or Magistrate who made the order requiring it.

Proceedings when to be laid before Court of Sessions.

(2) When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the Court of Session and the proceedings shall be laid, as soon as conveniently may be, before such Court.

(3) Such Court, after examining such proceedings and requiring from the Magistrate any further information or evidence which it thinks necessary, may pass such order on the case as it thinks fit:

Provided that the period (if any) for which any person is imprisoned for failure to give security shall not exceed three years.

(4) If security has been required in the course of the same proceedings from two or more persons in respect of any one of whom the proceedings are referred to the Court of Session under sub-section (2), such reference shall also include the case of any other of such persons who has been ordered to give security, and the provisions of sub-sections (2) and (3) shall, in that event, apply to the case of such other person also, except that the period (if any) for which he may be imprisoned shall not exceed the period for which he was ordered to give security.

(5) If the security is tendered to the officer in charge of the jail, he shall forthwith refer the matter to the Court or Magistrate who made the order, and shall await the orders of such Court or Magistrate.

(6) Imprisonment for failure to give security for keeping the peace shall be simple.

Kind of imprisonment.

(7) Imprisonment for failure to give security for good behaviour shall where the proceedings have been taken under Section 104 be simple and, where the proceedings have been taken under Section 105 or Section 106, be rigorous or simple as the Court or Magistrate in each case directs.

120. (1) Whenever the District Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter may be released without hazard to the community or to any other person, he may order such person to be discharged.

Power to release persons imprisoned for failing to give security.

(2) Whenever any person has been imprisoned for failing to give security under this Chapter, the District Magistrate may (unless the order has been made by some Court superior to his own) make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

(3) An order under sub-section (1) may direct the discharge of such person either without conditions or upon any conditions which such person accepts:

Provided that any condition imposed shall cease to be operative when the period for which such person was ordered to give security has expired.

(4) Our Government may prescribe the conditions upon which a conditional discharge may be made.

(5) If any condition upon which any such person has been discharged is, in the opinion of the District Magistrate by whom the order of discharge was made or of his successor, not fulfilled, he may cancel the same.

(6) When a conditional order of discharge has been cancelled under sub-section (5), such person may be arrested by any police-officer without warrant, and shall thereupon be produced before the District Magistrate.

Unless such person then gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the period between the date of the breach of the conditions of discharge and the date on which, except for such conditional discharge, he would have been entitled to release), the District Magistrate may remand such person to prison to undergo such unexpired portion.

A person remanded to prison under this sub-section shall, subject to the provisions of Section 118 be released at any time on giving security in accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made, or to its or his successor.

121. The District Magistrate may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behaviour executed under this Chapter by order of any Court in his district not superior to his Court.

Power of District Magistrate to cancel any bond for keeping the peace or good behaviour.

122. (1) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a District Magistrate, or Magistrate of the first class to cancel any bond executed under this Chapter within the local limits of his jurisdiction.

Discharge of sureties.

(2) On such application being made, the Magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.

123. When a person for whose appearance a warrant or summons has been issued under the proviso to sub-section (3) of Section 118 or under Section 122, sub-section (2), appears or is brought before him, the Magistrate shall cancel the bond executed by such person and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. Every such order shall, for the purpose of Sections 117, 118, 119, and 120, be deemed to be an order made under Section 102 or Section 114 as the case may be.

Security for unexpired period of bond.

CHAPTER IX.

UNLAWFUL ASSEMBLIES.

124. Any Magistrate or officer in charge of a police station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

Assembly to disperse on command of Magistrate or police-officer.

125. If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a police-station, may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier of Our State Forces acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law.

Use of civil force to disperse.

126. If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present may cause it to be dispersed by military force.

Use of Military force.

127. (1) When a Magistrate determines to disperse any such assembly by military force, he may require any officer of Our State Forces to disperse such assembly by military force, and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

Duty of officer commanding troops required by Magistrate to disperse assembly.

(2) Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

128. When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with, any Commissioned officer of Our State Forces may disperse such assembly by military force, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action.

Power of Commissioned military Officers to disperse assembly.

129. No prosecution against any person for any act purporting to be done under this Chapter shall be instituted in any Criminal Court, except with sanction of Our Government; and

Protection against prosecution for act done under this Chapter.

(a) no Magistrate or police-officer acting under this Chapter in good faith,

(b) no officer acting under Section 128 in good faith,

(c) no person doing any act in good faith, in compliance with a requisition under Section 125 or Section 127, and

(d) no inferior officer, or soldier, doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby committed an offence.

CHAPTER X.

Public Nuisances.

130. (1) Whenever a District Magistrate, or a Magistrate of the first class specially empowered by Our Government in this behalf considers, on receiving a police-report or other information and on taking such evidence (if any) as he thinks fit,

Conditional order for removal of nuisance.

that any unlawful obstruction or nuisance should be removed from any way, river or channel which is or may be lawfully used by the public, or from any public place, or

that the conduct of any trade or occupation, or the keeping of any goods or merchandise, is injurious to the health or physical comfort of the community, and that in consequence such trade or occupation should be prohibited or regulated or such goods or merchandise should be removed or the keeping thereof regulated, or

that the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped, or

that any building, tent or structure, or any tree is in such a condition that it is likely to fall and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence the removal, repair or support of such building, tent or structure, or the removal or support of such tree, is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be fenced in such manner as to prevent danger arising to the public, or

that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing or controlling such building, tent, structure, substance, tank, well or excavation, or owning or possessing such animal or tree, within a time to be fixed in the order,

to remove such obstruction or nuisance; or

to desist from carrying on, or to remove or regulate in such manner as may be directed, such trade or occupation; or

to remove such goods or merchandise, or to regulate the keeping thereof in such manner as may be directed; or

to prevent or stop the erection of, or to remove, repair or support, such building, tent or structure; or

to remove or support such tree; or

to alter the disposal of such substance; or

to fence such tank, well or excavation, as the case may be; or

to destroy, confine or dispose of such dangerous animal in the manner provided in the said order;

or, if he objects so to do,

to appear before him at a time and place to be fixed by the order, and move to have the order set aside or modified in the manner herein-after provided.

(2) No order duly made by a Magistrate under this section shall be called in question in any Civil Court.

Explanation.—A 'public place' includes also property belonging to the State, camping grounds and grounds left unoccupied for sanitary or recreative purposes.

Service or notification of order.

131. (1) The order shall, if practicable, be served on the person against whom it is made, in manner herein provided for service of a summons.

(2) If such order cannot be so served, it shall be notified by proclamation, published in such manner as Our Government may by rule direct, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.

Person to whom order is addressed to obey or show cause or claim panchayat.

132. The person against whom such order is made shall—

(a) perform, within the time and in the manner specified in the order, the act directed thereby; or

(b) appear in accordance with such order and either show cause against the same, or apply to the Magistrate by whom it was made to appoint a panchayat to try whether the same is reasonable and proper.

Consequence of his failing to do so.

133. If such person does not perform such act or appear and show cause or apply for the appointment of a panchayat as required by Section 132, he shall be liable to the penalty prescribed in that behalf in Section 181 of the Travancore Penal Code; and the order shall be made absolute.

Procedure where he appears to show cause.

134. (1) If he appears and shows cause against the order, the Magistrate shall take evidence in the matter as in a summons-case.

(2) If the Magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

(3) If the Magistrate is not so satisfied, the order shall be made absolute.

Procedure where he claims Panchayat.

135. (1) On receiving an application under Section 132 to appoint a panchayat, the Magistrate shall—

(a) forthwith appoint a panchayat consisting of an uneven number of persons not less than five, of whom the foreman and one-half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant;

(b) summon such foreman and members to attend at such place and time as the Magistrate thinks fit; and

(c) fix a time within which they are to return their verdict.

(2) The time so fixed may, for good cause shown, be extended by the Magistrate.

Procedure where panchayat finds Magistrate's order to be reasonable.

136. (1) If the panchayat or a majority of them find that the order of the Magistrate is reasonable and proper as originally made, or subject to a modification which the Magistrate accepts, the Magistrate shall make the order absolute, subject to such modification (if any).

(2) In other cases no further proceedings shall be taken under this Chapter.

137. (1) Where an order is made under section 130 for the purpose of preventing obstruction, nuisance or danger to the public in the use of any way, river, channel or place, the Magistrate shall, on the appearance before him of the person against whom the order was made, question him as to whether he denies the existence of any public right in respect of the way, river, channel or place, and if he does so, the Magistrate shall, before proceeding under section 134 or section 135 inquire into the matter.

Procedure where existance of public right is denied.

(2) If in such inquiry the Magistrate finds that there is any reliable evidence in support of such denial, he shall stay the proceedings until the matter of the existence of such right has been decided by a competent Civil Court; and, if he finds that there is no such evidence, he shall proceed as laid down in section 134 or section 135 as the case may require.

(3) A person who has, on being questioned by the Magistrate under sub-section (1), failed to deny the existence of a public right of the nature therein referred to, or who, having made such denial, has failed to adduce reliable evidence in support thereof, shall not in the subsequent proceedings be permitted to make any such denial, nor shall any question in respect of the existence of any such public right be inquired into by any panchayat appointed under section 135.

138. (1) When an order has been made absolute under section 133 section 134 or section 136 the Magistrate shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that, in case of disobedience, he will be liable to the penalty provided by section 181 of the Travancore Penal Code.

Procedure on order being made absolute.

(2) If such act is not performed within the time fixed, the Magistrate may cause it to be performed, and may recover the costs of performing it, either by the sale of any building, goods or other property removed by his order, or by the distress and sale of any other movable property of such person within or without the local limits of such Magistrate's jurisdiction. If such other property is without such limits, the order shall authorize its attachment and sale when endorsed by the Magistrate within the local limits of whose jurisdiction the property to be attached is found.

Consequences of disobedience to order.

(3) No suit shall lie in respect of anything done in good faith under this section.

139. If the applicant, by neglect or otherwise, prevents the appointment of the panchayat, or if from any cause the panchayat appointed do not return their verdict within the time fixed or within such further time as the Magistrate may in his discretion allow, the Magistrate may pass such order as he thinks fit, and such order shall be executed in the manner provided by section 138.

Procedure on failure to appoint panchayat or omission to return verdict.

140. (1) If a Magistrate making an order under section 130 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may, whether a panchayat is to be, or has been, appointed or not, issue such an injunction to the person against whom the order was made, as is required to obviate or prevent such danger or injury pending the determination of the matter.

Injunction pending inquiry.

(2) In default of such person forthwith obeying such injunction, the Magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent such injury.

(3) No suit shall lie in respect of anything done in good faith by a Magistrate under this section.

141. A District Magistrate or Magistrate of the First class may order any person not to repeat or continue a public nuisance, as defined in the Travancore Penal Code or any special or local law.

Magistrate may prohibit repetition or continuance of public nuisance.

CHAPTER XI.

Temporary Orders in Urgent Cases of Nuisance or Apprehended Danger.

142. (1) In cases where, in the opinion of a District Magistrate or a Magistrate of the First Class specially empowered by Our Government to act under this section, there is sufficient ground for proceeding under this section, and immediate prevention or speedy remedy is desirable,

Power to issue order absolute at once in urgent cases of nuisance or apprehended danger.

such Magistrate may, by a written order stating the material facts of the case and served in manner provided by section 131 direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquility, or a riot, or an affray.

(2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *exparte*.

(3) An order under this section may be directed to a particular individual, or to the public generally when frequenting or visiting a particular place.

(4) Any such Magistrate may, either on his own motion or on the application of any person aggrieved rescind or alter any order made under this section by himself or any Magistrate subordinate to him, or by his predecessor in office.

(5) Where such an application is received, the Magistrate shall afford to the applicant an early opportunity of appearing before him either in person or by pleader and showing cause against the order; and, if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing.

(6) No order under this section shall remain in force for more than two months from the making thereof; unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, Our Government by notification in Our Government Gazette, otherwise directs.

CHAPTER XII.

Disputes as to Immovable Property.

Procedure where dispute concerning land etc., is likely to cause breach of peace.

143. (1) Whenever a District Magistrate, or Magistrate of the first class is satisfied from a police-report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing, stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

(2) For the purposes of this section the expression "land or water" includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

(3) A copy of the order shall be served in manner provided by this Code for the service of a summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

Inquiry as to possession.

(4) The Magistrate shall then, without reference to the merits of the claims of any of such parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them respectively, consider the effect of such evidence, take such further evidence (if any) as he thinks necessary, and, if possible, decide whether any and which of the parties was at the date of the order before mentioned in such possession of the said subject:

Provided that, if it appears to the Magistrate that any party has within two months next before the date of such order been forcibly and wrongfully dispossessed, he may treat the party so dispossessed as if he had been in possession at such date:

Provided also, that if the Magistrate considers the case one of emergency, he may at any time attach the subject of dispute, pending his decision under this section.

(5) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub-section (1) shall be final.

Party in possession to retain possession until legally evicted.

(6) If the Magistrate decides that one of the parties was or should under the first proviso to sub-section (4) be treated as being in such possession of the said subject, he shall issue an order declaring such party to be entitiled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction and when he proceeds under the first proviso to sub-section (4), may restore to possession the party forcibly and wrongfully dispossessed.

(7) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding and shall thereupon continue the enquiry, and if any question arises as to who the legal representative of a deceased party for the purpose of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto.

(8) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale proceeds thereof, as he thinks fit.

(9) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing.

(10) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under section 103.

Power to attach subject of dispute.

144. (1) If the Magistrate decides that none of the parties was then in such possession, or is unable to satisfy himself as to which of them was then in such possession of the subject of dispute, he may attach it until a competent Civil Court has determined the rights of the parties thereto, or the person entitled to possession thereof:

Provided that the District Magistrate or the Magistrate who has attached the subject of dispute may withdraw the attachment at any time if he is satisfied that there is no longer any likelihood of a breach of the peace in regard to the subject of dispute.

(2) When the Magistrate attaches the subject of dispute, he may, if he thinks fit and if no receiver of the property, the subject of dispute, has been appointed by any Civil Court appoint a receiver thereof, who, subject to the control of the Magistrate, shall have all the powers of a reciver appointed under the Code of Civil Procedure.

Provided that, in the event of a receiver of the property, the subject of dispute, being subsequently appointed by any Civil Court possession shall be made over to him by the receiver appointed by the Magistrate, who shall thereupon be discharged.

Disputes concerning rights of use of immovable property, etc.

145. (1) Whenever any District Magistrate or Magistrate of the first class is satisfied, from a police report or other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as explained in section 143, sub-section (2) (whether such right be claimed as an easement or otherwise) within the local limits of his jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims, and shall thereafter inquire into the matter in the manner provided in section 143 and the provisions of that section shall, as far as may be, be applicable in the case of such inquiry.

(2) If it appears to such Magistrate that such right exists, he may make an order prohibiting any interference with the exercise of such right:

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or on the last of such occasions before such institution.

(3) If it appears to such Magistrate that such right does not exist, he may make an order prohibiting any exercise of the alleged right.

(4) An order under this section shall be subject to any subsequent decision of a Civil Court of competent jurisdiction.

Local inquiry.

146. (1) Whenever a local inquiry is necessary for the purposes of this Chapter, any District Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

(2) The report of the person so deputed may be read as evidence in the case,

Order as to costs.

(3) When any costs have been incurred by any party to a proceeding under this Chapter the Magistrate passing a decision under section 143, section 144 or section 145 may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion. Such costs may include any expenses incurred in respect of witnesses, and of pleaders' fees, which the Court may consider reasonable.

CHAPTER XIII.

PREVENTIVE ACTION OF THE POLICE.

Police to prevent cognizable offences.

147. Every police-officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence.

Information of design to commit such offences.

148. Every police-officer receiving information of a design to commit any cognizable offence shall communicate such information to the police-officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

Arrest to prevent such offences.

149. A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

Prevention of injury to public property.

150. A police officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, movable or immoveable, or the removal of or injury to any public landmark or buoy or other mark used for navigation.

Inspection of weights and measures.

151. (1) Any officer in charge of a police station may, without a warrant, enter into any market, bazaar, shop or other place within the limits of such station where any goods, food, drink, drug or other articles are exposed for sale for the purpose of inspecting or searching for any weights, or measures or instruments for weighing, used or kept, therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing, which are false.

(2) If he finds in such place any weighis, measures or instruments for weighing, which are false, he may seize and remove the same and shall forthwith give information of such seizure and removal to a Magistrate having jurisdiction

Explanation—For purposes of this section the word 'false' used in relation to weights, measures and instruments includes weights, measures and instruments that are unauthorised or uncertified under the provisions of the Travancore Weights and Measures Act (Act VI of 1085.)

PART V.

Information to the Police and their powers to investigate.

CHAPTER XIV.

Information in cognizable cases.

152. Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as Our Government may prescribe in this behalf.

Information in non-cognizable cases

153. (1) When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to the Magistrate.

Investigation into non-cognizable cases.

(2) No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the same for trial.

(3) Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police-station may exercise in a cognizable case.

Investigation into cognizable cases.

154. (1) Any officer in charge of a police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial.

(2) No proceeding of a police-officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate referred to in section 186 may order such an investigation as above mentioned.

155. (1) If, from information received or otherwise, an officer in charge of a police-station has reason to suspect the commission of an offence which he is empowered under section 151 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence, and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as Our Government may, by general or special order, prescribe in this behalf to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender:

Procedure where cognizable offence suspected.

Provided as follows:—

(a) when any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police-station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

Where local investigation dispensed with.

(b) if it appear to the officer in charge of a police-station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

Where police officer in charge sees no sufficient ground for investigation.

(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1), the officer in charge of the police station shall state in his said report his reasons for not fully complying with the requirements of that sub-section, and, in the case mentioned in clause (b), such officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by Our Government, the fact that he will not investigate the case or cause it to be investigated.

156. (1) Every report sent to a Magistrate under section 155 shall, if Our Government so directs, be submitted through such superior officer of police as Our Government, by general or special order, appoints in that behalf.

Reports under section 155 how submitted.

(2) Such superior officer may give such instructions to the officer in charge of the police station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

157. Such Magistrate, on receiving such report, may direct an investigation or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed to hold a preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

Power to hold investigation or preliminary inquiry.

158. Any police-officer making an investigation under this Chapter, may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the circumstances of the case; and such person shall attend as so required.

Police-officer's power to require attendance of witnesses.

159. (1) Any police-officer making an investigation under this Chapter or any police-officer not below such rank as Our Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

Examination of witnesses by police.

(2) Such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

160. (1) No statement made by any person to a police-officer in the course of an investigation under this Chapter shall, if reduced into writing, be signed by the person making it: nor shall any such statement or any record thereof, whether in a police-diary or otherwise, or any part of such statement or record, be used for any purpose (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made:

Statements to police not to be signed; use of such statements in evidence.

Provided that, when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, the Court shall on the request of the accused, refer to such writing and direct that the accused be furnished with a copy thereof, in order that any part of such statement, if duly proved, may be used to contradict such witness in the manner provided by section 145 of the Travancore Evidence Act. When any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination;

Provided, further that, if the Court is of opinion that any part of any such statement is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in the public interests, it shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the statement furnished to the accused.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 27 or section 32, clause (1), of the Travancore Evidence Act.

161. (1) No police-officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in the Travancore Evidence Act, section 24.

No inducement to be offered.

(2) But no police-officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will.

162. (1) Any Magistrate may, if he is not a police-officer record any statement or confession made to him in the course of an investigation under this Chapter or at any time afterwards before the commencement of the inquiry or trial.

Power to record statements and confessions.

(2) Such statements shall be recorded in such of the manners hereinafter prescribed for recording evidence as is, in his opinion best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 301, and such statements or confessions shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried.

(3) A Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against him and no Magistrate shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily; and, when he records any confession, he shall make a memorandum at the foot of such record to the following effect:—

"I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him.

(*Signed*) A. B.

Magistrate."

Explanation.—It is not necessary that the Magistrate receiving and recording a confession or statement should be a Magistrate having jurisdiction in the case.

163. (1) Whenever an officer in charge of a police-station or a police-officer making an investigation has reasonable grounds for believing that anything necessary for the purposes of an investigation into any offence which he is authorised to investigate may be found in any place within the limits of the police-station of which he is in charge, or to which he is attached, and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search, or cause search to be made, for such thing in any place within the limits of such station.

Search by police-officer.

(2) A police-officer proceeding under sub-section (1) shall, if practicable, conduct the search in person.

(3) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may after recording in writing his reasons for so doing require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing specifying the place to be searched and, so far as possible, the thing for which search is to be made, and such subordinate officer may thereupon search for such thing in such place.

(4) The provisions of this Code as to search-warrants and the general provisions as to searches contained in section 97 and section 98 shall, so far as may be, apply to a search made under this section.

(5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence and the owner or occupier of the place searched shall on application be furnished with a copy of the same by the Magistrate:

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.

When officer in charge of police-station may require another to issue search warrant.

164. (1) An officer in charge of a police-station or a police officer deputed under sub-section (1) of section 155 making an investigation may require an officer in charge of another police station, whether in the same or a different district, to cause a search to be made in any place, in case in which the former officer might cause such search to be made, within the limits of his own station.

(2) Such officer, on being so required, shall proceed according to the provisions of section 163, and shall forward the thing found, if any to the officer at whose request the search was made.

(3) Whenever there is reason to believe that the delay occasioned by requiring an officer in charge of another police-station to cause a search to be made under sub-section (1) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer in charge of a police-station or a police-officer making an investigation under this Chapter to search, or cause to be searched, any place in the limits of another police-station, in accordance with the provisions of section 163, as if such place were within the limits of his own station.

(4) Any officer conducting a search under sub-section (3) shall forthwith send notice of the search to the officer in charge of the police-station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 98, and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred to in section 163, sub-sections (1) and (3).

(5) The owner or occupier of the place searched shall, on application, be furnished with a copy of any record sent to the Magistrate under sub-section (4):

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.

165. (1) Whenever any person is arrested and detained in custody and it appears that the investigation cannot be completed within the period of twentyfour hours fixed by section 48, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police-station or the police officer making the investigation shall forthwith transmit to the nearest Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

Procedure when investigation cannot be completed in twenty-four hours.

(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case from time to time authorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole. If he has not jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction.

(3) A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.

(4) If such order is given by a Magistrate other than the District Magistrate he shall forward a copy of his order, with his reasons for making it, to the District Magistrate. It shall be competent to such District Magistrate to cancel or modifiy any such order.

166. When any subordinate police-officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer in charge of the police-station.

Report of investigation by subordinate police-officer.

167. If, upon an investigation under this Chapter, it appears to the officer in charge of the police-station or to the police-officer making the investigation that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police report and to try the accused or commit him for trial.

Release of accused when evidence deficient.

168. (1) If, upon an investigation under this Chapter, it appears to the officer in charge of the police-station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit him for trial or, if the offence is bailable and the accused is able to give security, shall tak esecurity from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

Case to be sent to Magistrate when evidence is sufficient

(2) When the officer in charge of a police-station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary, to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

(3) If the Court of the District Magistrate is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.

(5) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

Complainants and witnesses not to be required to accompany police-officer.

169. No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a police-officer,

Complainants and witnesses not to be subjected to restraint.

Or shall be subjected to unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond:

Recusant complainant or witness may be forwarded in custody.

Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 168, the officer in charge of the police-station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

Diary of proceedings in investigation.

170. (1) Every police-officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(2) Any Criminal Court may send for the police-diaries of a case under inquiry or trial in such Court, and may use such diaries, not as evidence in the case, but to aid it in such inquiry or trial. Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but, if they are used by the police-officer who made them, to refresh his memory, or if the Court uses them for the purpose of contradicting such police-officer, the provisions of the Travancore Evidence Act, section 161 or section 145, as the case may be, shall apply.

171. (1) Every investigation under this Chapter shall be completed without unnecessary delay, and, as soon as it is completed, the officer in charge of the police-station shall—

Report of police-officer.

(a) forward to a Magistrate empowered to take cognizance of the offence on a police-report a report, in the form prescribed by Our Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case, and stating whether the accused (if arrested) has been forwarded in custody or has been released on his bond, and, if so, whether with or without sureties, and

(b) communicate, in such manner as may be prescribed by Our Government, the action taken by him to the person, if any, by whom the information relating to the commission of the offence was first given.

(2) Where a superior officer of police has been appointed under section 156 the report shall, except in cases where Our Government may otherwise direct be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation.

(3) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

(4) A copy of any report forwarded under this section shall, on application, be furnished to the accused before the commencement of the inquiry or trial:

Provided that the same shall be paid for unless the Magistrate for some special reason thinks fit to furnish it free of cost.

Police to inquire and report on suicide, etc.

172. (1) The officer in charge of a police-station or some other police-officer specially empowered by Our Government in that behalf, on receiving information that a person —

(a) has committed suicide, or

(b) has been killed by another, or by an animal, or by machinery, or by an accident, or

(c) has died under circumstances raising a reasonable suspicion that some other person has committed an offence,

shall immediately give intimation thereof to the nearest Magistrate and, unless otherwise directed by any rule prescribed by Our Government, or by any general or special order of the District Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and draw up a report of the apparent cause of death, describing such wounds, fractures,

bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

(2) The report shall be signed by such police-officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate.

(3) The opinion of those who do not concur in the report shall be obtained in writing and submitted with the report.

(4) When there is any doubt regarding the cause of death, or when for any other reason the police-officer considers it expedient so to do, he shall, subject to such rules as Our Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest medical officer appointed in this behalf by our Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(5) All Magistrates are empowered to hold inquests.

Power to summon persons.

173. (1) A police-officer proceeding under section 172 may, by order in writing summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.

(2) If the facts do not disclose a cognizable offence to which section 168 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

Inquiry by Magistrate into cause of death.

174. (1) When any person dies while in the custody of the police, the nearest Magistrate shall, and, in any other case mentioned in section 172, clauses (*a*), (*b*) and (*c*) of sub-section (1), any Magistrate may hold an enquiry into the cause of death either instead of, or in addition to, the investigation held by the police-officer, and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed according to the circumstances of the case.

Power to disinter corpses.

(2) Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

PART VI.

Proceedings in Prosecutions.

CHAPTER XV.

OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS.

A.—Place of Inquiry or Trial.

Ordinary place of inquiry and trial.

175. Every offence shall ordinarily be inquired into and tried by a Court within the local limits of whose jurisdiction it was committed.

Accused triable in district where act is done or where consequence ensues.

176. When a person is accused of the commission of any offence by reason of anything which has been done, and of any consequence which has ensued, such offence may be inquired into or tried by a Court within the local limits of whose jurisdiction any such thing has been done, or any such consequence has ensued.

Illustrations.

(*a*) A is wounded within the local limits of the jurisdiction of Court X, and dies within the local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be inquired into or tried either by X or Z.

(*b*) A is wounded within the local limits of the jurisdiction of Court X, and is, during ten days within the local limits of the jurisdiction of Court Y, and during ten days more within the local limits of the jurisdiction of Court Z, unable in the local limits of the jurisdiction of either Court Y or Court Z, to follow his ordinary pursuits. The offence of causing grievous hurt to A may be inquired into or tried by X, Y or Z.

(*c*) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is thereby induced, within the local limits of the jurisdiction of Court Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into or tried either by X or Y.

Place of trial where act is offence by reason of relation to other offence.

177. When an act is an offence by reason of its relation to any other act which is also an offence or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a Court within the local limits of whose jurisdiction either act was done.

Illustration.

(*a*) A charge of abetment may be inquired into or tried either by the Court within the local limits of whose jurisdiction the abetment was committed, or by the Court within the local limits of whose jurisdiction the offence abetted was committed.

(b) A charge of receiving or retaining stolen goods may be inquired into or tried either by the Court within the local limits of whose jurisdiction the goods were stolen, or by any Court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.

(c) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into or tried by the Court within the local limits of whose jurisdiction the wrongful concealing, or by the Court within the local limits of whose jurisdiction the kidnapping, took place.

Belonging to a gang of dacoits, escape from custody etc.

178. (1) The offence of dacoity, of dacoity with murder, of having belonged to a gang of dacoits, or of having escaped from custody, may be inquired into or tried by a Court within the local limits of whose jurisdiction the person charged is.

Criminal misappropriation and criminal breach of trust.

(2) The offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within the local limits of whose jurisdiction any part of the property which is the subject of the offence was received or retained by the accused person, or the offence was committed.

(3) The offence of criminal breach of trust by a public servant may also be inquired into or tried by a Court within the local limits of whose jurisdiction the office, in which such servant is employed or to which he should render accounts, is permanently located.

(4) The offence of theft, or any offence which includes theft or the possession of stolen property, may be inquired into or tried by a Court within the local limits of whose jurisdiction such offence was committed or the property stolen was possessed by the thief or by any person who received or retained the same knowing or having reason to believe it to be stolen.

Kidnapping and abduction.

(5) The offence of kidnapping or abduction may be inquired into or tried by a Court within the local limits of whose jurisdiction the person kidnapped or abducted was kidnapped or abducted or was conveyed or concealed or detained.

Place of inquiry or trial where scene of offence is uncertain or not in one district only or where offence is continuing or consists of several acts.

179. When it is uncertain in which of several local areas an offence was committed, or

where an offence is committed partly in one local area and partly in another, or

where an offence is a continuing one, and continues to be committed in more local areas than one, or

where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

180. An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a Court through or into the local limits of whose jurisdiction the offender, or the person against whom or the thing in respect of which the offence was committed, passed in the course of that journey or voyage.

Offence committed on a journey.

181. Whenever any doubt arises as to the Court by which any offence should under the preceding provisions of this Chapter be inquired into or tried, Our High Court may decide by which Court the offence shall be inquired into or tried.

High Court to decide, in case of doubt, District where enquiry or trial shall take place.

182. (1) When a District Magistrate, or a Magistrate of the first class, sees reason to believe that any person within the local limits of his jurisdiction has committed without such limits (whether within or without Travancore) an offence which cannot, under the provisions of sections 175 to 180 (both inclusive), or any other law for the time being in force, be inquired into or tried within such local limits, but is under some law for the time being in force triable in Travancore, such Magistrate may inquire into the offence as if it had been committed within such local limits and compel such person in manner hereinbefore provided to appear before him, and send such person to the Magistrate having jurisdiction to inquire into or try such offence, or, if such offence is bailable, take a bond with or without sureties for his appearance before such Magistrate.

Power to issue summons or warrant for offence committed beyond local jurisdiction.

Magistrate's procedure on arrest.

(2) When there are more Magistrates than one having such jurisdiction and the Magistrate acting under this section cannot satisfy himself as to the Magistrate to or before whom such person should be sent or bound to appear, the case shall be reported for the orders of Our High Court.

183. (1) If the person has been arrested under a warrant issued under section 182 by a Magistrate other than a District Magistrate, such Magistrate shall send the person arrested to the District Magistrate to whom he is subordinate, unless the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for the arrest of such person, in which case the person arrested shall be delivered to the police-officer executing such warrant or shall be sent to the Magistrate by whom such warrant was issued.

Procedure where warrant issued by subordinate Magistrate.

(2) If the offence which the person arrested is alleged or suspected to have committed is one which may be inquired into or tried by any Criminal Court in the same district other than that of the Magistrate acting under section 182, such Magistrate shall send such person to such Court.

184. When any of Our subjects commits an offence at any place without and beyond the limits of Travancore he may be dealt with in respect of such offence as if it had been committed at any place within Travancore at which he may be found:

Liability of Travancore subjects for offences committed out of Travancore.

Provided that if, the offender has been duly tried by the State within whose limits such offence was committed or while proceedings in connection with such offence are pending in such State, nothing in this section authorises the Courts of this State to take cognizance of the offence.

185. Whenever any such offence as is referred to in section 184 is being inquired into or tried, Our Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before a judicial officer in or for the territory in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

Power to direct copies of depositions and exhibits to be received in evidence.

B.—*Conditions requisite for Initiation of Proceedings.*

186. (1) Except as hereinafter provided, any Magistrate may take cognizance of any offence—

Cognizance of offences by Magistrates.

(*a*) upon receiving a complaint of facts which constitute such offence;

(*b*) upon a report in writing of such facts made by any police-officer.

(2) A Magistrate of the First Class or any Magistrate of the Second Class who is empowered by Our Government in this behalf, may also take cognizance of a case upon information received from any person other than a Police-Officer or upon his own knowledge or suspicion that such offence has been committed.

187. When a Magistrate takes cognizance of an offence under sub-section (2), of the preceding section, the accused shall, before any evidence is taken, be informed that he is entitled to have the case tried by another Court and if the accused, or any of the accused if there be more than one, objects to being tried by such Magistrate, the case shall, instead of being tried by such Magistrate, be committed to the Court of Session or transferred to another Magistrate.

Transfer or commitment on application of accused.

188. (1) Any District Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial to any Magistrate subordinate to him and competent to inquire into and try such case.

Transfer of cases by Magistrates.

(2) Any District Magistrate may empower any Magistrate of the first class who has taken cognizance of any case to transfer it for inquiry or trial to any other specified Magistrate in his district who is competent under this Code to try the accused or commit him for trial; and such Magistrate may dispose of the case accordingly.

189. (1) Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the accused has been committed to it by a Magistrate.

Cognizance of offences by Court of Session.

(2) Additional Sessions Judges shall try such cases only as Our Government by general or special order may direct them to try.

Cognizance of offences by Additional Sessions Judges.

190. (1) No Court shall take cognizance—

(*a*) of any offence punishable under sections 165 to 181 of the Travancore Penal Code, except on the complaint in writing of the public servant concerned, or of some other public servant to whom he is subordinate;

Prosecution for contempt of lawful authority of public servants.

(*b*) of any offence punishable under any of the following sections of the same Code, namely, sections 187, 188, 189, 190, 193, 194, 200, 201, 202, 203, 204, 205, 206 and 226 when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, except on the complaint in writing of such Court or of some other Court to which such Court is subordinate; or

Prosecution for certain offences against public justice.

(*c*) of any offence described in section 465 or punishable under section 473, section 477 or section 478 of the same Code, when such offence is alleged to have been committed by a party to any proceeding in any Court in respect of a document produced or given in evidence in such proceeding, except on the complaint in writing of such Court, or of some other Court to which such Court is subordinate.

Prosecution for certain offences relating to documents given in evidence.

(2) In clauses (*b*) and (*c*) of sub-section (1) the term "Court" includes a Civil, Revenue or Criminal Court, but does not include a Registrar or Sub-Registrar under the Travancore Registration Act II of 1087.

(3) For the purposes of this section, every Court shall be deemed to be subordinate to the Court to which appeals from the former court ordinarily lie.

(4) The provisions of sub-section (1), with reference to the offences named therein, apply also to criminal conspiracies to commit such offences and to the abetment of such offences, and attempts to commit them.

(5) Where a complaint has been made under sub-section (1), clause (*a*), by a public servant, any authority to which such public servant is subordinate may order the withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the Court and, upon receipt thereof by the Court, no further proceedings shall be taken on the complaint.

191. No Court shall take cognizance of any offence punishable under Chapter VI or IX A of the Travancore Penal Code (except section 120), or punishable under section 145 A or section 164 or section 182 or section 293, or section 294A or section 508 of the same Code, unless upon complaint made by order of or under authority from, Our Government.

Prosecution for offences against the State.

192. No Court shall take cognizance of the offence of criminal conspiracy punishable under section 110 B of the Travancore Penal Code,

Prosecution for certain classes of criminal conspiracy.

(1) in a case where the object of the conspiracy is to commit either an illegal act other than an offence, or a legal act by illegal means, or an offence to which the provisions of section 191 apply, unless upon complaint made by order or under authority from Our Government.

(2) in a case where the object of the conspiracy is to commit any non-cognizable offence, or a cognizable offence not punishable with death, or rigorous imprisonment for a term of two years or upwards, unless Our Government, or a District Magistrate empowered in this behalf by Our Government, has, by order in writing, consented to the initiation of the proceedings:

Provided that where the criminal conspiracy is one to which the provisions of sub-section (4) of section 190 apply no such consent shall be necessary.

193. In the case of any offence in respect of which the provisions of section 191 or section 192 apply, a District Magistrate may, notwithstanding anything contained in those sections or in any other part of this Code, order a preliminary investigation by a police-officer not being below the rank of Inspector, in which case such police-officer shall have the powers referred to in section 153, sub-section (3).

Preliminary inquiry in certain cases.

194. (1) When any public servant who is not removable from his office save by or with the sanction of Our Government, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of Our Government.

Prosecution of Judges and public servants.

(2) Our Government may determine the person by whom, the manner in which, the offence or offences for which, the prosecution of such public servants is to be conducted, and may specify the Court before which the trial is to be held.

Power of Government as to prosecution.

195. No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of the Travancore Penal Code or under sections 496 to 499 (both inclusive) of the same Code or of any offence compoundable without the permission of the Court under section 285 except upon a complaint made by some person aggrieved by such offence :

Prosecution for breach of contract, defamation and offences against marriage.

Provided that, where the person so aggrieved is a woman who, according to the customs and manners of the country, ought not to be compelled to appear in public, or where such person is under the age of eighteen years or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his or her behalf.

196. No Court shall take cognizance of an offence under section 500 or section 501 of the Travancore Penal Code, except upon a complaint made by the husband of the woman, or, in his absence, made with the leave of the Court by some person who had care of such woman on his behalf at the time when such offence was committed:

Prosecution for adultery or enticing a married woman.

Provided that, where such husband is under the age of eighteen years, or is an idiot or lunatic, or is from sickness or infirmity unable to make a complaint, some other person may, with the leave of the Court, make a complaint on his behalf.

197. When in any case falling under section 195 or section 196, the person on whose behalf the complaint is sought to be made is under the age of eighteen years or is a lunatic, and the person applying for leave has not been appointed or declared by competent authority to be the guardian of the person of the said minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, notice shall be given to such guardian, and the Court shall, before granting the application, give him a reasonable opportunity of objecting to the granting thereof.

Objection by lawful guardian to complaint by person other than person aggrieved.

CHAPTER XVI.

Of Complaints to Magistrates.

198. A Magistrate taking cognizance of an offence on complaint shall at once examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant, and also by the Magistrate :

Examination of complainant.

Provided as follows :—

(*a*) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to examine the complainant before transferring the case under section 188.

(*b*) when the complaint is made in writing, nothing herein contained shall be deemed to require the examination of a complainant in any case in which the complaint has been made by a Court or by a public servant acting or purporting to act in the discharge of his official duties.

(*c*) when the case has been transferred under section 188 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

Procedure by Magistrate not competent to take cognizance of the case.

199. (1) If the complaint has been made in writing to a Magistrate who is not competent to take cognizance of the case, he shall return the complaint for presentation to the proper Court with an endorsement to that effect.

(2) If the complaint has not been made in writing, such Magistrate shall direct the complainant to the proper Court.

Postponement for issue of process.

200. (1) Any Magistrate of the first or second class on receipt of a complaint of an offence of which he is authorised to take cognizance, or which has been transferred to him under section 188, may, if he thinks fit, for reasons to be recorded in writing, postpone the issue of process for compelling the attendance of the person complained against, and either inquire into the case himself or direct an inquiry or investigation to be made by any Magistrate subordinate to him, or by a police-officer, or by such other person as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint:

Provided that, save where the complaint has been made by a Court, no such direction shall be made unless the complainant has been examined on oath under the provisions of section 198.

(2) If any inquiry or investigation under this section is made by a person not being a Magistrate or a police-officer, such person shall exercise all the powers conferred by this Code on an officer in charge of a police-station, except that he shall not have power to arrest without warrant.

(3) Any Magistrate inquiring into a case under this section may, if he thinks fit, take evidence of witnesses on oath.

Dismissal of complaint.

201. The Magistrate before whom a complaint is made or to whom it has been transferred, may dismiss the complaint, if, after considering the statement on oath (if any) of the complainant and the result of the investigation or inquiry (if any) under section 200, there is in his judgment no sufficient ground for proceeding. In such case he shall briefly record his reasons for so doing.

CHAPTER XVII.

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE MAGISTRATES.

Issue of process.

202. (1) If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be one in which, according to the fourth column of the Second Schedule, a summons should issue in the first instance, he shall issue his summons for the attendance of the accused. If the case appears to be one in which, according to that column, a warrant should issue in the first instance, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such Magistrate or (if he has not jurisdiction himself) some other Magistrate having jurisdiction.

(2) Nothing in this section shall be deemed to affect the provisions of section 78.

(3) When by any law for the time being in force any process fees or other fees are payable, no process shall be issued until the fees are paid and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

Magistrate may dispense with personal attendance of accused.

203. (1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader.

(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

CHAPTER XVIII.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION.

Power to commit for trial.

204. Any Magistrate may commit any person for trial to the Court of Session for any offence triable by such Court.

Procedure in inquiries preparatory to commitment.

205. The following procedure shall be adopted in inquiries before Magistrates where the case is triable exclusively by a Court of Session, or, in the opinion of the Magistrate, ought to be tried by such Court.

206. (1) The Magistrate shall, when the accused appears or is brought before him, proceed to hear the complainant (if any), and take in manner hereinafter provided all such evidence as may be produced in support of the prosecution or in behalf of the accused, or as may be called for by the Magistrate.

Taking of evidence produced.

(2) The accused shall be at liberty to cross-examine the witnesses for the prosecution, and in such case the prosecutor may re-examine them.

(3) If the complainant or officer conducting the prosecution or the accused applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or thing, the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

Process for production of further evidence.

207. (1) When the evidence referred to in section 206 sub-sections (1) and (3), has been taken, and he has (if necessary) examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, record his reasons and discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

When accused person to be discharged.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

208. (1) When, upon such evidence being taken and such examination (if any) being made, the Magistrate is satisfied that there are sufficient grounds for committing the accused for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged.

When charge is to be framed.

(2) As soon as such charge has been framed, it shall be read and explained to the accused, and a copy thereof shall, if he so requires, be given to him free of cost.

Charge to be explained, and copy furnished to accused.

209. (1) The accused shall be required at once to give in, orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial.

List of witnesses for defence on trial.

(2) The Magistrate may, in his discretion, allow the accused to give in any further list of witnesses at a subsequent time.

Further list.

210. The Magistrate may, in his discretion, summon and examine any witness named in any list given to him under section 209.

Power of Magistrate to examine such witnesses.

211. *(1)* When the accused, on being required to give in a list under section 209 has declined to do so, or when he has given in such list and the witnesses (if any) included therein whom the Magistrate desires to examine have been summoned and examined under section 210, the Magistrate may make an order committing the accused for trial by the Court of Session and shall also record briefly the reasons for such commitment.

Order of commitment.

(2) If the Magistrate, after hearing the witnesses for the defence, is satisfied that there are not sufficient grounds for commiting the accused, he may cancel the charge and discharge the accused.

212. A commitment once made under section 211 by a competent Magistrate can be quashed by the High Court only, and only on a point of law.

Quashing commitments under section 211.

213. When the accused has given in any list of witnesses under section 209 and has been committed for trial, the Magistrate shall summon such of the witnesses included in the list, as have not appeard before himself to appear before the Court to which the accused has been committed:

Summons to witnesses for defence when accused is committed

Provided, that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and, if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness and all other proper expenses.

Refusal to summon unnecessary witness unless deposit made.

214. *(1)* Complainants and witnesses for the prosecution and defence, whose attendance before the Court of Session is necessary and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon at the Court of Session to prosecute or to give evidence, as the case may be.

Bond of complainants and witnesses.

(2) If any complainant or witness refuses to attend before the Court of Session or execute the bond above directed, the Magistrate may detain him in custody until he executes such bond, or until his attendance at the Court of Session is required when the Magistrate shall send him in custody to the Court of Session.

Detention in custody in case of refusal to attend or to execute bond.

215. When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by Our Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge

Commitment when to be notified.

and shall send the charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session.

Charge, etc., to be forwarded to Court of Session.

216. (1) The committing Magistrate may, if he thinks fit, summon and examine supplementary witnesses after the commitment and before the commencement of the trial, and bind them over in manner hereinbefore provided to appear and give evidence.

Power to summon supplementary witnesses.

(2) Such examination shall, if possible, be taken in the presence of the accused, and, a copy of the evidence of such witnesses shall be given to the accused free of cost.

217. Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail commit the accused by warrant, to custody.

Custody of accused pending trial.

CHAPTER XIX.

Of the Charge.

Form of Charges.

218. (1) Every charge under this Code shall state the offence with which the accused is charged.

Charge to state offence.

(2) If the law which creates the offence gives it any specifi name, the offence may be described in the charge by that name only.

Specific name of offence sufficient description.

(3) If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.

How stated where offence has no specific name.

(4) The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

(5) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

What implied in charge.

(6) The charge shall be written in the language of the accused and when such language is not the language of the Court or English, in the language of the Court.

Language of charge.

(7) If the accused having been previously convicted of any offence, is liable, by reason of such previous conviction, to enhanced punishment, or to punishment of a different kind, for a subsequent offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court may think fit to award for the subsequent offence, the fact, date and place of the previous conviction shall be stated in the charge. If such statement has been omitted the Court may add it at any time before sentance is passed.

Previous conviction when to be set out.

Illustrations.

(a) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 298 and 299 of the Travancore Penal Code; that it did not fall within any of the general exceptions of the same Code; and that it did not fall within any of the five exceptions to section 299 or, that, if it did fall within Exception I, one or other of the three provisos to that exception apply to it.

(b) A is charged, under section 326 of the Travancore Penal Code, with voluntarily causing grievous hurt to B by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 335 of the Travancore Penal Code, and that the general exceptions did not apply to it.

(c) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Travancore Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(d) A is charged, under section 177 of the Travancore Penal Code with intentionally obstructing a sale of property offered for sale by the lawful authority of a public-servant. The charge should be in those words.

219 (1) The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged.

Particulars as to time, place and person.

(2) When the accused is charged with criminal breach of trust or dishonest misappropriation of money, it shall be sufficient to specify the gross sum in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 231.

Provided that the time included between the first and last of such dates shall not exceed one year.

When manner of committing offence must be stated

220. When the nature of the case is such that the particulars mentioned in sections 218 and 219 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

(*a*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b*) A is accused of cheating B at a given time and place., The charge must set out the manner in which A cheated B.

(*c*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d*) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

Words in charge taken in sense of law under which offence is punishable.

221. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

Effect of errors.

222. No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was in fact misled by such error or omission, and it has occasioned a failure of justice.

Illustrations.

(*a*) A is charged under section 239 of the Travancore Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in the case, a material error.

(*d*) A is charged with the murder, of Khoda Baksh on the 21st January 1882. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January 1882. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e*) A was charged with murdering Haidar Baksh on the 20th January 1882, and Khoda Baksh (who tried to arrest him for that murder) on the 21st January 1882. When charged for the murder of Haidar Baksh, he was tried for the murder of Khoda Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

Procedure on commitment without charge or with imperfect charge.

223. When any person is committed for trial without a charge, or with an imperfect or erroneous charge, the Court, may frame a charge or add to or otherwise alter the charge, as the case may be, having regard to the rules contained in this Code as to the form of charges.

Illustrations.

1. A is charged with the murder of C. A. charge of abetting the murder of C may be added or substituted.

2. A is charged with forging a valuable security under section 469 of the Travancore Penal Code. A charge of fabricating false evidence under section 187 may be added.

3. A is charged with receiving stolen property knowing it to be stolen. During the trial it incidentally appears that he has in his possession instruments for the purpose of counterfeiting coin. A charge under section 232 of the Travancore Penal Code cannot be added.

Court may alter charge.

224. (*1*) Any Court may alter or add to any charge at any time before judgment is pronounced.

(2) Every such alteration or addition shall be read and explained to the accused.

When trial may proceed immediately after alteration.

225. If the charge framed or alteration or addition made under section 223 or section 224 is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the Court may, in its discretion, after such charge or alteration or addition has been framed or made, proceed with the trial as if the new or altered charge had been the original charge.

When new trial may be directed or trial suspended.

226. If the new or altered or added charge is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused or the prosecutor as aforesaid, the Court may either direct a new trial or adjourn the trial for such period as may be necessary.

Stay of proceedings if prosecution of offence in altered charge require previous sanction.

227. If the offence stated in the new or altered or added charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded.

Recall of witnesses when charge altered.

228. Whenever a charge is altered or added to by the Court after the commencement of the trial, the prosecutor and the accused shall be allowed to re-call or re-summon, and examine with reference to such alteration or addition, any witness who may have been examined, and also to call any further witness whom the Court may think to be material.

Effect of material error.

229. (1) If any Appellate Court, or the High Court in the exercise of its powers of revision or of its powers under Chapter XXVII, is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge or by an error in the charge, it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit.

(2) If the Court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

Illustration.

A is convicted of an offence, under section 190 of the Travancore Penal Code, upon a charge which omits to state that he knew the evidence, which he corruptly used or attempted to use as true or genuine, was false or fabricated. If the Court thinks it probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new

trial upon an amended charge; but, if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction.

Joinder of charges.

Separate charges for distinct offences.

230. For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 231, 232, 233 and 236.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and causing grievous hurt.

Three offences of same kind within year may be charged together.

231. (*1*) When a person is accused of more offences than one of the same kind committed within the space of twelve months from the first to the last of such offences, whether in respect of the same person or not he may be charged with and tried at one trial for, any number of them not exceeding three.

(*2*) Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Penal Code or of any special or local law:

Provided that, for the purpose of this section, an offence punishable under section 379 of the Travancore Penal Code shall be deemed to be an offence of the same kind as an offence punishable under section 380 of the said Code and that an offence punishable under any section of the Travancore Penal Code, or of any special or local law, shall be deemed to be an offence of the same kind as an attempt to commit such offence, when such an attempt is an offence.

Trial for more than one offence.

232. (*1*) If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

Offence falling within two definitions.

(*2*) If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

Acts constituting one offence, but constituting when combined a different offence.

(*3*) If several acts of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with, and tried at one trial for, the offence constituted by such acts when combined, and for any offence constituted by any one, or more, of such acts.

(4) Nothing contained in this section shall affect the Travancore Penal Code, section 60.

Illustrations.

to sub-section (1)—

(*a*) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and convicted of, offences under sections 222 and 333 of the Travancore Penal Code.

(*b*) A commits house-breaking by day with intent to commit adultery, and commits in the house so entered adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 456 and 500 of the Travancore Penal Code.

(*c*) A entices B, the wife of C, away from C, with intent to commit adultery with B, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 501 and 500 of the Travancore Penal Code.

(*d*) A has in his possession several seals, knowing them to be counterfeit and intending to use them for the purpose of committing several forgeries punishable under section 468 of the Travancore Penal Code. A may be separately charged with, and convicted of, the possession of each seal under section 475 of the Travancore Penal Code.

(*e*) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding; and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charges. A may be separately charged with, and convicted of, two offences under section 206 of the Travancore Penal Code.

(*f*) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 206 and 188 of the Travancore Penal Code.

(*g*) A, with six others, commits the offence of rioting, grievous hurt and assaulting a public servant endeavouring in the discharge of his duty as such to suppress the riot. A may be separately charged with, and convicted of, offences under sections 139, 325 and 144 of Travancore Penal Code.

(*h*) A threatens B, C and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under section 509 of the Travancore Penal Code.

The separate charges referred to in Illustrations (*a*) to (*h*) respectively may be tried at the same time.

to sub-section (2)—

(*i*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of offences under sections 352 and 323 of the Travancore Penal Code.

(*j*) Several stolen sacks of corn are made over to A and B, who know they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a grain pit. A and B may be separately charged with, and convicted of, offences under sections 412 and 415 of the Travancore Penal Code.

(*k*) A exposes her child with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with, and convicted of, offences under sections 317 and 303 of the Travancore Penal Code.

(*l*) A dishonestly uses a forged document as genuine evidence in order to convict B, a public servant, of an offence under section 159 of the Travancore Penal Code. A may be separately charged with, and convicted of, offences under sections 473 (read with 468) and 190 of the same Code.

to sub-section (3)—

(*m*) A commits robbery on B, and in doing so voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Travancore Penal Code.

Where it is doubtful what offence has been committed.

233. If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

Illustrations.

(*a*) A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust or cheating.

(*b*) A states on oath before the Magistrate that he saw B hit C with a club. Before the Sessions Court A states on oath that B never hit C. A may be charged in the alternative and convicted of intentionally giving false evidence, although it cannot be proved which of these contradictory statements was false.

234. If in the case mentioned in section 233, the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it,

When a person is charged with one offence, he can be convicted of another.

Illustration.

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust or of receiving stolen goods (as the case may be) though he was not charged with such offence.

235. (*1*) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

When offence proved included in offence charged.

(*2*) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it.

(*3*) When a person is charged with an offence, he may be convicted of an attempt to commit such offence although the attempt is not separately charged.

(*4*) Nothing in this section shall be deemed to authorize a conviction of any offence referred to in Chapters XIX, XX or XXI of the Travancore Penal Code when no complaint has been made as required by section 195 or section 196.

Illustrations.

(*a*) A is charged, under section 408 of the Travancore Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears, that he did commit criminal breach of trust under section 407 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 407.

(*b*) A is charged. under section 325 of the Travancore Penal Code, with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 335 of that Code.

What persons may be charged jointly.

236. The following persons may be charged and tried together, namely :—

(*a*) persons accused of the same offence committed in the course of the same transaction ;

(*b*) persons accused of an offence and persons accused of abetment, or of an attempt to commit such offence ;

(*c*) persons accused of more than one offence of the same kind, within the meaning of section 231 committed by them jointly within the period of twelve monhs,

(*d*) persons accused of different offences committed in the course of the same transaction;

(*e*) persons accused of an offence which includes theft, extortion, or criminal misappropriation, and persons accused of receiving or retaining, or assisting in the disposal or concealment of, property possession of which is alleged to have been transferred by any such offence committed by the first-named persons, or of abetment of or attempting to commit any such last-named offence;

(*f*) persons accused of offences under sections 412 and 415 of the Travancore Penal Code or either of those sections in respect of stolen property the possession of which has been transferred by one offence, and

(*g*) persons accused of any offence under Chapter XII of the Travancore Penal Code relating to counterfeit coin, and persons accused of any other offence under the said Chapter relating to the same coin, or of abetment of or attempting to commit any such offence;

and the provisions contained in the former part of this Chapter shall, so far as may be, apply to all such charges.

Withdrawal of remaining charges on conviction on one of several charges.

237. When a charge containing more heads than one is framed against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the Court, withdraw the remaining charge or charges, or the Court of its own accord may stay the inquiry into, or trial of, such charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said Court (subject to the order of the Court setting aside the conviction) may proceed with the inquiry into or trial of the charge or charges so withdrawn.

CHAPTER XX.

OF THE TRIAL OF SUMMONS-CASES BY MAGISTRATES.

Procedure in summons-cases.

238. The following procedure shall be observed by Magistrates in the trial of summons-cases.

Substance of accusation to be stated.

239. When the accused appears or is brought before the Magistrate the particulars of the offence of which he is accused shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted; but it shall not be necessary to frame a formal charge.

Conviction on admission of truth of accusation.

240. If the accused admits that he has commited the offence of which he is accused, his admission shall be recorded as nearly as possible in the words used by him; and, if he shows no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

241. (1) If the Magistrate does not convict the accused under the preceding section or if the accused does not make such admission, the Magistrate shall proceed to hear the complainant (if any), and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence.

Procedure when no such admission is made.

Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court.

(2) The Magistrate may, if he thinks fit, on the application of the complainant or accused, issue a summons to any witness directing him to attend or to produce any document or other thing.

(3) The magistrate may, before summoning any witness on such application, require that his reasonable expenses, incurred in attending for the purposes of the trial, be deposited in Court.

242. (1) If the Magistrate upon taking the evidence referred to in section 241 and such further evidence (if any) as he may, of his own motion, cause to be produced, and (if he thinks fit) examining the accused, finds the accused not guilty, he shall record an order of acquittal.

Acquittal.

(2) Where the Magistrate does not proceed in accordance with the provisions of section 289 or section 471, he shall, if he finds the accused guilty, pass sentence upon him according to law.

Sentence.

243. A Magistrate may, under section 240 or section 242 convict the accused of any offence triable under this Chapter which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or summons.

Finding not limited by complaint or summons.

244. If the summons has been issued on complaint, and upon the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks proper to adjourn the hearing of the case to some other day:

Non-appearance of complainant.

Provided that, where the complainant is a public servant and his personal attendance is not required, the Magistrate may dispense with his attendance, and proceed with the case.

245. If a complainant, at any time before a final order is passed in any case under this Chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused.

Withdrawal of complaint.

Power to stop proceedings when no complainant.

246. In any case instituted otherwise than upon complaint, a Magistrate of the first class, or with the previous sanction of the District Magistrate, any other Magistrate, may for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment either of acquittal or conviction, and may thereupon release the accused.

Frivolous Accusations in Summons and Warrant Cases.

False, frivolous or vexatious accusations.

247. (1) If in any case instituted upon complaint or upon information given to a police-officer or to a Magistrate, one or more persons is or are accused before a Magistrate of any offence triable by a Magistrate, and the Magistrate by whom the case is heard discharges or acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Magistrate may, by his order of discharge or acquittal, if the person upon whose complaint or information the accusation was made is present, call upon him forthwith to show cause why he should not pay compensation to such accused or to each or any of such accused when there are more than one, or, if such person is not present direct the issue of a summons to him to appear and show cause as aforesaid.

(2) The Magistrate shall record and consider any cause which such complainant or informant may show and if he is satisfied that the accusation was false and either frivolous or vexatious may, for reasons to be recorded direct that compensation to such amount not exceeding fifty rupees as he may determine, be paid by such complainant or informant to the accused or to each or any of them.

(3) The Magistrate may, by the order directing payment of the compensation under sub-section (2), further order that, in default of payment, the person ordered to pay such compensation shall suffer simple imprisonment for a period not exceeding thirty days.

(4) When any person is imprisoned under sub-section (3), the provisions of sections 57 and 58 of the Travancore Penal Code shall, so far as may be, apply.

(5) No person who has been directed to pay compensation under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter.

(6) A complainant or informant who has been ordered under sub-section (2) by a Magistrate of the second or third class to pay compensation may appeal from the order, in so far as the order relates to the payment of the compensation, as if such complainant or informant had been convicted on a trial held by such Magistrate.

(7) When an order for payment of compensation to an accused person is made in a case which is subject to appeal under sub-section (6), the compensation shall not be paid to him before the period allowed for the presentation of the appeal has elapsed or, if an appeal is presented, before the appeal has been decided and, were such order is made in a case which is not so subject to appeal, the compensation shall not be paid before the expiration of one mtnth from the date of the order.

CHAPTER XXI.

OF THE TRIAL OF WARRANT-CASES BY MAGISTRATES.

Procedure in warrant-cases.

248. The following procedure shall be observed by Magistrates in the trial of warrant-cases.

Evidence for prosecution.

249. (1) When the accused appears or is brought before a Magistrate such Magistrate shall proceed to hear the complainant (if any) and take all such evidence as may be produced in support of the prosecution:

Provided that the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court.

(2) The Magistrate shall ascertain, from the complainant or otherwise the names of any persons likely to be acquinted with the facts of the case and to be able to give evidence for the prosecution, and shall summon to give evidence before himself such of them as he thinks necessary.

Discharge of accused.

250. (1) If, upon taking all the evidence referred to in section 249 and making such examination (if any) of the accused as the Magistrate thinks necessary, he finds that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

Charge to be framed when offence appears proved.

251. If, when such evidence and examination have been taken and made, or at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try, and which, in his opinion could be adequately punished by him, he shall frame in writing a charge against the accused.

Plea.

252. (1) The charge shall then be read and explained to the accused and he shall be asked whether he is guilty or has any defence to make.

(2) If the accused pleads guilty, the Magistrate shall record the plea, and may in his discretion convict him thereon.

Procedure in case of previous convictions.

253. In a case where a previous conviction is charged under the provisions of section 218, sub-section (7), and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused under section 252, sub-section (2), or section 256, take evidence in respect of the alleged previous conviction, and shall record a finding thereon.

Defence.

254. (1) If the accused refuses to plead, or does not plead, or claims to be tried, he shall be required to state, at the commencement of the next hearing of the case or, if the Magistrate for reasons to be recorded in writing so thinks fit, forthwith, whether he wishes to cross-examine any, and, if so, which, of the witnesses for the prosecution whose evidence has been taken. If he says he does so wish, the witnesses named by him shall be recalled and, after cross-examination and re-examination (if any), they shall be discharged. The evidence of any remaining witnesses for the prosecution shall next be taken, and, after cross-examination and re-examination (if any), they also shall be discharged. The accused shall then be called upon to enter upon his defence and produce his evidence.

(2) If the accused puts in any written statement, the Magistrate shall file it with the record.

Process for compelling production of evidence at instance of accused.

255. (1) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by him in writing :

Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness after the charge is framed, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the purposes of justice.

(2) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred in attending for the purposes of the trial be deposited in Court.

Acquital.

256. (1) If in any case under this Chapter in which a charge has been framed the Magistrate finds the accused not guilty, he shall record an order of acquittal.

Conviction.

(2) Where in any case under this Chapter the Magistrate does not proceed in accordance with the provisions of section 289 or section 471 he shall, if he finds the accused guilty, pass sentence upon him according to law

257. When the proceedings have been instituted upon complaint, and upon any day fixed for the hearing of the case the complainant is absent, and the offence may be lawfully compounded, or is not a cognizable offence the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

Absence of complainant.

CHAPTER XXII.

OF SUMMARY TRIALS.

Power to try summarily.

258. Notwithstanding anything contained in this Code,—

(1) the District Magistrate,

(2) any Magistrate of the first class specially empowered in this behalf by Our Government, and

(3) any Bench of Magistrates invested with the powers of a Magistrate of the first class and specially empowered in this behalf by Our Government, may, if he or they think fit, try in a summary way all or any of the following offences;—

(*a*) offences not punishable with death, or imprisonment for a term exceeding six months;

(*b*) offences relating to weights and measures under sections 262, 263, 264 and 265 of the Travancore Penal Code;

(*c*) hurt, under section 323 of the same Code;

(*d*) theft, under section 379, 380 or 381 of the same Code, where the value of the property stolen does not exceed fifty rupees;

(*e*) dishonest misappropriation of property under section 403 of the same Code, where the value of the property misappropriated does not exceed fifty rupees;

(*f*) receiving or retaining stolen property under section 412 of the same Code, where the value of such property does not exceed fifty rupees;

(*g*) assisting in the concealment or disposal of stolen property, under section 415 of the same Code, where the value of such property does not exceed fifty rupees;

(*h*) mischief under section 428 of the same code;

(*i*) abetment of any of the foregoing offences;

(*j*) an attempt to commit any of the foregoing offences, when such attempt is an offence;

(*k*) offences under section 20 of the Cattle trespass Act, 1086;

259. Our Government may confer on any Magistrate of the second class or any Bench of Magistrates invested with the powers of a Magistrate of the second class power to try summarily all or any of the following offences:—

Power to invest Bench of Magistrates invested with less power.

(a) offences under sections 275, 276, 277, 283, 284, 287, 288, 290, 291, 292, 323, 334, 336, 341, 352, 427, and 448 of the Travancore Penal Code;

(b) theft under sections 379, 380 and 381 of the aforesaid Code, where the value of the property stolen does not exceed twenty rupees;

(c) offence under section 10 of the Travancore Weights and Measures Act, 1085;

(d) offences under the Travancore Municipal Act V of 1095;

(e) offences under the Hackney Carriages Act, VI of 1089;

(f) offences under sections 50, 51 and 52 of the Travancore Police Act, IV of 1095;

(g) any other offence not punishable with death or imprisonment for a term exceeding one month;

(h) abetment of any of the foregoing offences;

(i) an attempt to commit any of the foregoing offences, when such attempt is an offence.

260. When in the course of a summary trial it appears to the Magistrate or Bench that the case is one which is of a character which renders it undesirable that it should be tried summarily, the Magistrate or Bench shall recall any witness who may have been examined and proceed to re-hear the case in manner provided by this Code.

Power to change nature of trial.

261. (1) In trials under this Chapter, the procedure prescribed for summons-cases shall be followed in summons-cases and the procedure prescribed for warrant-cases shall be followed in warrant-cases, except as hereinafter mentioned.

Procedure for summons and warrant-cases applicable.

(2) No sentence of imprisonment for a term exceeding one month shall be passed in the case of any conviction under this Chapter.

Limit of imprisonment.

262. In cases where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses in full or frame a formal charge; but shall record the substance of the evidence; he or they shall also enter in such form as Our Government may direct the following particulars:—

Record in cases where there is no appeal.

(a) the serial number;

(b) the date of the commission of the offence;

(c) the date of the report or complaint;

(d) the name of the complainant (if any);

(e) the name, parentage and residence of the accused;

(*f*) the offence complained of and the offence (if any) proved, and in cases coming under clause (*d*), clause (*e*), clause (*f*) or clause (*g*) of section 258 the value of the property in respect of which the offence has been committed ,
(*g*) the plea of the accused and his examination (if any);
(*h*) the finding, and, in the case of a conviction, a brief statement of the reasons therefor;
(*i*) the sentence or other final order; and
(*j*) the date on which the proceedings terminated.

Record in appealable cases.

263. In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall, before passing sentence, record judgment embodying the substance of the evidence and also the particulars mentioned in section 262.

Language of record and judgment.

264. (1) Records made under section 262 and judgments recorded under section 263 shall be written by the presiding officer, either in English or in the language of the Court.

Bench may be authorized to employ clerk.

(2) Our Government may authorize any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the District Magistrate and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

(3) If no such authorization be given, the record prepared by a member of the Bench and signed as aforesaid shall be the proper record.

(4) If the Bench differ in opinion, any dissentient member may write a separate judgment.

CHAPTER XXIII.

Of Trials before Courts of Session.

A.—Preliminary.

Trial before Court of Session to be conducted by Public Prosecutor.

265. In every trial before a Court of Session the prosecution shall be conducted by a Public Prosecutor.

B.—Commencement of Proceedings.

Commencement of trial.

266. (1) When the Court is ready to commence the trial the accused shall appear or be brought before it, and the charge shall be read out in Court and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried.

Plea of guilty.

(2) If the accused pleads guilty, the plea shall be recorded, and he may be convicted thereon.

267. If the accused refuses to, or does not plead, or if he claims to be tried, the Court shall proceed to try the case.

Refusal to plead or claim to be tried.

C.—Trial to Close of Cases for Prosecution and Defence.

268. (1) The prosecutor shall open his case by reading from the Travancore Penal Code or other law the description of the offence charged, and stating shortly by what evidence he expects to prove the guilt of the accused.

Opening case for prosecution.

(2) The prosecutor shall then examine his witnesses.

Examination of witnesses.

269. The examination of the accused duly recorded by or before the committing Magistrate shall be tendered by the prosecutor and read as evidence.

Examination of accused before Magistrate to be evidence.

270. The evidence of a witness duly recorded in the presence of the accused under Chapter XVIII may, in the discretion of the presiding Judge, if such witness is produced and examined, be treated as evidence in the case for all purposes subject to the provisions of the Travancore Evidence Act.

Evidence given at preliminary inquiry admissible.

271. (1) When the examination of the witnesses for the prosecution and the examination (if any) of the accused are concluded, the accused shall be asked whether he means to adduce evidence.

Procedure after examination of witnesses for prosecution.

(2) If he says that he does not, the prosecutor may sum up his case; and, if the Court considers that there is no evidence that the accused committed the offence, it may then, record a finding, of not guilty.

(3) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court after hearing the prosecutor considers that there is no evidence that the accused committed the offence, the Court may then, record a finding of not guilty.

(4) If the accused, or any one of several accused, says that he means to adduce evidence, and the Court considers that there is evidence that he committed the offence, or if, on his saying that he does not mean to adduce evidence, the prosecutor sums up his case and the Court considers that there is evidence that the accused committed the offence, the Court shall call on the accused to enter on his defence.

272. The accused or his pleader may then open his case, stating the facts or law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution. He may then examine his witnesses (if any) and after their cross-examination and re-examination (if any) may sum up his case.

Defence.

273. The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance; but he shall not, except as provided in sections 209 and 226 be entitled of right to have any witness summoned, other than the witnesses named in the list delivered to the Magistrate by whom he was committed for trial.

Right of accused as to examination and summoning of witnesses.

Prosecutor's right of reply.

274. The prosecutor shall be entitled to reply—

(a) if the accused or any of the accused adduces any oral evidence; or

(b) with the permission of the Court, on a point of law; or

(c) with the permission of the Court, when any document which does not need to be proved is produced by any accused person after he enters on his defence:

Provided that, in the case referred to in clause (c) the reply shall, unless the Court otherwise permits, be restricted to comment on the document so produced.

D—Procedure in case of Previous Conviction.

Procedure in case of previous conviction.

275. In every trial where the accused is charged with an offence and further charged that he is by reason of a previous conviction liable to enhanced punishment or to punishment of a different kind for such subsequent offence, the procedure prescribed by the foregoing provisions of this Chapter shall be modified as follows, namely:—

Such further charge shall not be read out in Court and the accused shall not be asked to plead thereto, nor shall the same be referred to by the prosecution, or any evidence adduced thereon unless and until he has been convicted of the subsequent offence.

When evidence of previous conviction may be given.

276. Notwithstanding anything in the last foregoing section, evidence of the previous conviction may be given at the trial for the subsequent offence, if the fact of the previous conviction is relevant under the provisions of the Travancore Evidence Act.

CHAPTER XXIV.

General Provisions as to Inquiries and Trials.

Tender of pardon to accomplice.

277. (1) In the case of any offence triable exclusively by the Court of Session, the District Magistrate or with the sanction in writing of the District Magistrate, any other Magistrate may, at any stage of the investigation or inquiry into the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the

whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof:

Provided that, where the offence is under inquiry, no Magistrate other than the District Magistrate shall exercise the power hereby conferred unless he is the Magistrate making the inquiry and, where the offence is under investigation, no such Magistrate shall exercise the said power unless he is a Magistrate having jurisdiction in a place where the offence might be inquired into.

(2) Every Magistrate who tenders a pardon under sub-section (1) shall record his reasons for so doing, and shall, on application made by the accused, furnish him with a copy of such record:

Provided that the accused shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.

(3) Every person accepting a tender under this section shall be examined as a witness in the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any.

(4) In every case where a person has accepted a tender of pardon and has been examined under sub-section (3) the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are reasonable grounds for believing that the accused is guilty of an offence, commit him for trial to the Court of Session.

(5) Such person, unless he is already on bail shall be detained in custody until the termination of the trial.

Power to direct tender of pardon.

278. At any time after commitment, but before judgment is passed, the Court to which the commitment is made may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender, or order the committing Magistrate or the District Magistrate to tender, a pardon on the same condition to such person.

Commitment of person to whom pardon has been tendered.

279. (1) Where a pardon has been tendered under section 277 or section 278 and the Public Prosecutor certifies that in his opinion any person who has accepted such tender has, either by wilfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made such person may be tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter:

Provided that such person shall not be tried jointly with any of the other accused, and that he shall be entitled to plead at such trial that he has complied with the conditions upon which such tender was made; in which case it shall be for the prosecution to prove that such conditions have not been complied with.

(2) The statement made by a person who has accepted a tender of pardon may be given in evidence against him at such trial.

(3) No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of Our High Court.

(4) (a) The Court trying under this section a person who has accepted a tender of pardon shall --

(i) if the Court is a Court of Session, before the charge is read out and explained to the accused under section 266, sub-section (1), and

(ii) if the Court is the Court of a Magistrate, before the evidence of the witnesses for the prosecution is taken,

ask the accused whether he pleads that he has complied with the conditions on which the tender of pardon was made,

(b) if the accused does so plead, the Court shall record the plea and proceed with the trial, and shall, before judgment is passed in the case find whether or not the accused has complied with the conditions of the pardon, and if it is found that he has so complied, the Court shall, notwithstanding anything contained in this Code, pass judgment of acquittal.

Right of person against whom proceedings are instituted to be defended and his competency to be a witness.

280. (1) Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code in any such Court, may of right be defended by a pleader.

(2) Any person against whom proceedings are instituted in any such Court under section 103 or under Chapter X, Chapter XI, Chapter XII or Chapter XXXVI or under section 465, may offer himself as a witness in such proceedings.

Procedure where accused does not understand proceedings.

281. If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to Our High Court with a report of the circumstances of the case and Our High Court shall pass thereon such order as it thinks fit.

Power to examine the accused.

282. (1) For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of any inquiry or trial without previously warning the accused, put such questions to him as the Court considers necessary, and shall, for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence.

(2) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them; but the Court may draw such inference from such refusal or answers as it thinks just.

(3) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

(4) No oath shall be administered to the accused.

No influence to be used to induce disclosures.

283. Except as provided in sections 277 and 278, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

Power to postpone or adjourn proceedings.

284. (1) If from the absence of a witness, or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of, or adjourn any inquiry or trial, the Court may, if it thinks fit, by order in writing, stating the reasons therefor, from time to time, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:

Remand.

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time.

(2) Every order made under this section by a Court shall be in writing signed by the presiding Judge or Magistrate. If the order has been made by a Magistrate, other than a Magistrate of the District, a copy of such order shall be forwarded to the District Magistrate. It shall be competent to such Magistrate of the District to cancel or modify such order.

Reasonable cause for remand.

Explanation.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Compounding offences.

285. (1) The offences punishable under the sections of the Travancore Penal Code specified in the first two columns of the table next following may be compounded by the persons mentioned in the third column of that table.—

Offence.	Sections of Travancore Penal Code applicable.	Persons by whom offence may be compounded.
Uttering words, etc, with deliberate intent to wound the religious feelings of any person	297	The person whose religious feelings are intended to be wounded
Causing hurt	23, 334	The person to whom the hurt is caused
Wrongfully restraining or confining any person	341, 342	The person restrained or confined
Assault or use of criminal force	352, 355, 358	The person assaulted or to whom criminal force is used
Unlawful compulsory labour	374	The person compelled to labour
Mischief, when the only loss or damage caused is loss or damage to a private person	427, 428	The person to whom the loss or damage is caused
Criminal trespass	448	The person in possession of the property trespassed upon
House trespass	450	
Criminal breach of contract of service	494	The person with whom the offender has contracted
Adultery	500	The husband of the woman
Enticing or taking away or detaining with criminal intent a married woman	501	
Defamation	503	The person defamed
Printing or engraving matter knowing it to be defamatory	504	
Sale of printed or engraved substance containing defamatory matter knowing it to contain such matter.	505	
Insult intended to provoke a breach of the peace.	507	The person insulted
Criminal intimidation except when the offence is punishable with imprisonment for seven years	509	The person intimidated
Act caused by making a person believe that he will be an object of divine displeasure.	511	The person against whom the off- offence was committed

(2) The offences punishable under the sections of the Travancore Penal Code specified in the first two columns of the table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of the table :—

Offence.	Sections of the Travancore Penal Code applicable.	Persons by whom offence may be compounded.
Voluntarily causing hurt by dangerous weapons or means	324	The person to whom hurt is caused
Voluntarily causing grievous hurt on grave and sudden provocation	335	Ditto
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others	337	Ditto
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others	338	Ditto
Dishonest misappropriation of property	403	The owner of the property misappropriated
Opening letters without authority	405	By whom the prosecution has been started
Cheating	418	The person cheated
Mischief or injury to work of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to a private person	431	The person to whom the loss or damage is caused
House-trespass to commit an offence (other than theft) punishable with imprisonment	45	The person in possession of the house trespassed upon
Using a false trade or property mark	485	The person to whom loss or injury is caused by such use
Counterfeiting a trade or property mark used by another	486	The person whose trade or property mark is counterfeited.
Knowingly selling, or exposing or possessing for sale or for trade or manufacturing purpose, goods marked with a counterfeit trade or property mark	489	Ditto

(3) When any offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) may be compounded in like manner.

(4) When the person who would otherwise be competent to compound an offence under this section is under the age of eighteen years or is an idiot or a lunatic, any person competent to contract on his behalf may with the permission of the Court compound such offence.

(5) When the accused has been committed for trial or when he has been convicted and an appeal is pending, no composition for the offence shall be allowed without the leave of the Court to which he is committed, or, as the case may be, before which the appeal is to be heard.

(6) Our High Court acting in the exercise of its powers of revision under section 362 may allow any person to compound any offence which he is competent to compound under this section.

(7) The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded.

(8) No offence shall be compounded except as provided by this section.

(9) If, in cases of offences compoundable with the permission of the Court, the Court before which the case is pending refuses to grant permission to compound the offence, it shall record its reasons for such refusal. The High Court may, if it thinks fit, grant the permission applied for.

Procedure of Magistrate in cases which he cannot dispose of.

286. (1) If, in the course of an inquiry or a trial before a Magistrate in any district, the evidence appears to him to warrant a presumption that the case is one which should be tried or committed for trial by some other Magistrate in such district, he shall stay proceedings and submit the case, with a brief report explaining its nature, to the District Magistrate to whom he is subordinate.

(2) The District Magistrate may, either try the case himself, or refer it to any Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.

287. If in any inquiry before a Magistrate, or in any trial before a Magistrate, before signing judgment, it appears to him at any stage of the proceedings that the case is one which ought to be tried by the Court of Session, he shall commit the accused under the provisions hereinbefore contained.

Trial of persons previously convicted of offences against coinage, stamp-law or property.

288. (1) Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of the Travancore Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall if the Magistrate before whom the case is pending

is satisfied that there are sufficient grounds for committing the accused be committed to the Court of Session unless the Magistrate is competent to try the case and is of opinion that he can himself pass an adequate sentence if the accused is convicted.

(2) When any person is committed to the Court of Session under sub-section (1), any other person accused jointly with him in the same inquiry or trial shall be similarly committed, unless the Magistrate discharges such other person under section 207.

Procedure when Magistrate cannot pass sentence sufficiently severe.

289. (1) Whenever a Magistrate of the second or third class, having jurisdiction, is of opinion, after hearing the evidence for the prosecution and the accused, that the accused is guilty, and that he ought to receive a punishment different in kind from, or more severe than, that which such Magistrate is empowered to inflict, or that he ought to be required to execute a bond under section 102 he may record the opinion and submit his proceedings, and forward the accused, to the District Magistrate to whom he is subordinate.

(2) When more accused than one are being tried together and the Magistrate considers it necessary to proceed under sub-section (1) in regard to any of such accused, he shall forward all the accused who are in his opinion guilty to the District Magistrate.

(3) The District Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties and recall and examine any witness who has already given evidence in the case and may call for and take any further evidence, and shall pass such judgment, sentence or order in the case, as he thinks fit, and as is according to law:

Provided that he shall not inflict a punishment more severe than he is empowered to inflict under sections 21 and 22.

Conviction or commitment on evidence partly recorded by one Magistrate and partly by another.

290. (1) Whenever any Magistrate, after having heard and recorded the whole or any part of the evidence in an inquiry or a trial, ceases to exercise jurisdiction therein, and is succeeded by another Magistrate who has and who exercises such jurisdiction, the Magistrate so succeeding may act on the evidence so recorded by his predecessor or partly recorded by his predecessor and partly recorded by himself; or he may re-summon the witnesses and re-commence the inquiry or trial:

Provided as follows;—

(a) in any trial the accused may, when the second Magistrate commences his proceedings, demand that the witnesses or any of them be re-summoned and re-heard;

(b) the High Court, or, in cases tried by Magistrates of the second or third class, the District Magistrate may, whether there be an appeal or not, set aside any conviction passed on evidence

not wholly recorded by the Magistrate before whom the conviction was held, if such Court or District Magistrate is of opinion that the accused has been materially prejudiced thereby, and may order a new inquiry or trial.

(2) Nothing in this section applies to cases in which proceedings have been stayed under section 286 or in which proceedings have been submitted to the District Magistrate under section 289.

(3) When a case is transferred under the provisions of this Code from one Magistrate to another, the former shall be deemed to cease to exercise jurisdiction therein, and to be succeeded by the latter within the meaning of sub-section (1).

Changes in constitution of Benches.

291. No order or judgment of a Bench of Magistrates shall be invalid by reason only of a change having occurred in the constitution of the Bench in any case in which the Bench by which such order or judgment is passed is duly constituted under sections 13 and 14 and the Magistrates constituting the same have been present on the Bench throughout the proceedings.

Detention of offenders attending Court.

292. (1) Any person attending a Criminal Court, although not under arrest or upon a summons, may be detained by such Court for the purpose of inquiry into or trial of any offence of which such Court can take cognizance and which, from the evidence, may appear to have been committed, and may be proceeded against as though he had been arrested or summoned.

(2) When the detention takes place in the course of an inquiry under Chapter XVIII or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh, and the witnesses re-heard.

Courts to be open.

293. The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person shall not have access to, or be or remain in, the room or building used by the Court.

CHAPTER XXV.

OF THE MODE OF TAKING AND RECORDING EVIDENCE IN INQUIRIES AND TRIALS.

Evidence to be taken in presence of accused.

294. Except as otherwise expressly provided, all evidence taken under Chapters XVIII, XX, XXI, XXII, and XXIII shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in the presence of his pleader.

295. Every witness shall before his examination commences, be sworn in such manner as Our Government may prescribe from time to time.

Witnesses to be sworn.

296. (1) In all trials (other than summary trials) and in all inquiries, the evidence of each witness shall be taken down in writing in the language of the Court by the Magistrate or Sessions Judge, or in his presence and hearing and under his personal direction and superintendence and shall be signed by the Magistrate or Sessions Judge and also by the witness.

Record in trials of and inquiries into offences.

(2) When the evidence of such witness is given in English, the Magistrate or Sessions Judge may take it down in that language with his own hand, and, unless the accused is familiar with English, an authenticated translation of such evidence in the language of the Court shall form part of the record.

Evidence given in English.

(3) When the evidence of such witness is given in any other language, not being English, than the language of the Court, the Magistrate or Sessions Judge may take it down in that language with his own hand, or cause it to be taken down in that language in his presence and hearing and under his personal direction and superintendence, and an authenticated translation of such evidence in the language of the Court or in English shall form part of the record.

(4) In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall form part of the record.

Memorandum when evidence not taken down by the Magistrate or Judge himself

(5) If the Magistrate or Sessions Judge is prevented from makiing a memorandum as above required, he shall record the reason of his nability to make it.

297. (1) Evidence taken under section 296 shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

Mode of recording evidence under section 296.

(2) The Magistrate or Sessions Judge may, in his discretion, take down, or cause to be taken down, any particular question and answer.

298. (1) As the evidence of each witness taken under section 296 is completed, it shall be read over to him in the presence of the accused, if in attendence, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

Procedure in regard to such evidence when completed.

(2) If the witness denies the correctness of any part of the evidence when the same is read over to him, the Magistrate or Sessions Judge may instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

(3) If the evidence is taken down in a language different from that in which it has been given and the witness does not understand the language in which it is taken down, the evidence so taken down shall be interpreted to him in the language in which it was given or in a language which he understands.

Interpretation of evidence to accused or his pleader.

299. (1) Whenever any evidence is given in a language not understood by the accused, and he is present in person, it shall be interpreted to him in open Court in a language understood by him.

(2) If he appears by pleader and the evidence is given in a language other than the language of the Court, and not understood by the pleader, it shall be interpreted to such pleader in that language.

(3) When documents are put in for the purpose of formal proof it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

Remarks respecting demeanour of witness.

300. When a Sessions Judge or Magistrate has recorded the evidence of a witness, he shall also record such remarks (if any) as he thinks material respecting the demeanour of such witness whilst under examination.

Examination of accused how recorded.

301. (1) Whenever the accused is examined by any Magistrate or by any Court,

the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, in the language in which he is examined, or if that is not practicable, in the language of the Court, and such record shall be shown or read to him or, if he does not understand, the language in which it is written, shall be interpreted to him in a language which he understands, and he shall be at liberty to explain or add to his answers.

(2) When the whole is made conformable to what he declares is the truth, the record shall be signed by the accused and the Magistrate or Judge of such Court, and such Magistrate or Judge shall certify under his own hand that the examination was taken in his presence and hearing and that the record contains a full and true account of the statement made by the accused.

(3) In cases in which the examination of the accused is not recorded by the Magistrate or Judge himself, he shall be bound, as the examination proceeds, to make a memorandum thereof in the language of the Court, or in English, if he is sufficiently acquainted with the latter language; and such memorandum shall be written and signed by the Magistrate or Judge with his own hand, and shall be annexed to the record. If the Magistrate or Judge is unable to make a memorandum as above required, he shall record the reason of such inability.

(4) Nothing in this section shall be deemed to apply to the examination of an accused person under section 262.

CHAPTER XXVI.

OF THE JUDGMENT.

Mode of delivering judgment.

302. (1) The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced, or the substance of such judgment shall be explained,—

(*a*) in open Court either immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, and

(*b*) in the language of the Court, or in some other language which the accused or his pleader understands:

Provided that the whole judgment shall be read out by the presiding Judge if he is requested so to do either by the prosecution or the defence.

(2) The accused shall, if in custody, be brought up, or, if not in custody, be required by the Court to attend to hear judgment delivered except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted, in either of which cases it may be delivered in the presence of his pleader.

(3) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof

or of any omission to serve, or defect in serving, on the parties or their pleaders or any of them, the notice of such day and place.

(4) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 446.

Language of judgment, Contents of judgment.

303. (1) Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court in the language of the Court, or in English; and shall contain the point or points for determination, the decision thereon and the reasons for the decision; and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it.

(2) It shall specify the offence (if any) of which, and the section of the Travancore Penal Code or other law under which the accused is convicted, and the punishment to which he is sentenced.

Judgment in alternative.

(3) When the conviction is under the Travancore Penal Code and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same and pass judgment in the alternative.

(4) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

(5) If the accused is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall in its judgment state the reason why sentence of death was not passed.

(6) For the purposes of this section, an order under section 114 or section 119, sub-section (3), shall be deemed to be a judgment.

Sentence of death.

304. When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

Court not to alter judgment.

305. No Court, when it has signed its judgment, shall alter or review the same, except as provided in Section 326 or 395 or to correct a clerical error.

Copy of judgment etc., to be given to accused on application.

306. (1) On the application of the accused a copy of the judgment, or when he so desires, a translation in his own language, if practicable, or in the language of the Court, shall be given to him without delay. Such copy shall, in any case other than a summons-case be given free of cost.

Case of person sentenced to death or imprisonment for life.

(2) When the accused is sentenced to death or imprisonment for life by a Sessions Judge, such Judge shall further inform him of the period within which, if he wishes to appeal, his appeal should be preferred.

307. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the offence was committed.

Court of Session to send copy of finding and sentence to District Magistrate.

CHAPTER XXVII.

Of the Submission of Sentences for Confirmation.

308. When the Court of Session passes sentence of death or of imprisonment for life the proceedings shall be submitted to Our High Court and the sentence shall not be executed unless it is confirmed by Our High Court, and approved by Us.

Sentence of death and imprisonment for life to be submitted by Court of Session.

309. (1) If when such proceedings are submitted Our High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court of Session.

Power to direct further inquiry to be made or additional evidence to be taken.

(2) Such inquiry shall be made and such evidence shall be taken in the presence of the convicted person.

(3) When the inquiry and the evidence (if any) are not made and taken by Our High Court the result of such inquiry and the evidence shall be certified to such Court.

310. In any case submitted under section 308, Our High Court—

Power of High Court to confirm sentence or annul conviction.

(a) may confirm the sentence, or pass any other sentence warranted by law, or

(b) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or

(c) may acquit the accused person:

Provided that no order of confirmation shall be made under this section until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

311. In cases submitted by the Court of Session to Our High Court for the confirmation of a sentence of death or imprisonment for life the proper officer of the High Court shall without delay, after the order of confirmation has been approved by Us, or if Our High Court has made any other order, after such order has been made, send a copy of it under the seal of Our High Court and attested with his official signature, to the Court of Session.

Procedure in cases submitted to High Court for confirmation.

312. Where proceedings are submitted to a District Magistrate as provided by section 471, such Magistrate may there-upon pass such sentence or make such order as he might have passed or made if the case had originally been heard by him, and, if he thinks further inquiry or additional evidence on any point to be necessary he may make such inquiry or take such evidence himself or direct such inquiry or evidence to be made or taken.

Procedure in cases submitted by Magistrate not empowered to act under section 471.

CHAPTER XXVIII.

Of Execution.

313. When a sentence of death or imprisonment for life passed by a Court of Session is submitted to Our High Court for confirmation, such Court of Session shall, on receiving the order of confirmation or other order of Our High Court thereon, cause such order to be carried into effect by issuing a warrant or taking such other steps as may be necessary.

Execution of order passed under section 310.

314. Where the accused is sentenced to imprisonment in cases other than those provided for by section 313, the Court passing the sentence shall forthwith forward a warrant to the jail in which he is, or is to be, confined, and, unless the accused is already confined in such jail, shall forward him to such jail with the warrant.

Execution of sentences of imprisonment in other cases.

315. Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the jail, or other place in which the prisoner is, or is to be, confined.

Direction of warrant for execution.

316. When the prisoner is to be confined in a jail, the warrant shall be lodged with the jailor.

Warrant with whom to be lodged.

317. (1) Whenever an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may—

Warrant for levy of fine.

(a) issue a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender,

(b) issue a warrant to the Division Peishkar authorising him to realise the amount by execution according to civil process against the movable or immovable property, or both, of the defaulter.

(2) If the sentence directs that in default of payment of the fine the offender shall be imprisoned, and if such offender has ndergone the whole of such imprisonment in default, the Court may nevertheless, at its direction issue a warrant, as aforesaid for the recovery of the fine.

(2) Our Government may make rules regulating the manner in which warrants under sub-section (1), clause (a), are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.

(3) Where the Court issues a warrant to the Division Peishkar under sub-section (1) clause (b) such warrant shall be deemed to be a decree, and the Division Peishkar to be the decree holder, within the meaning of the Code of Civil Procedure, 1100, and the nearest Civil Court by which any decree for a like amount could be executed shall, for the purposes of the said Code, be deemed to be the Court which passed the decree, and all the provisions of that Code as to execution of decrees shall apply accordingly:

Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.

Effect of such warrant.

318. A warrant issued under section 317 sub-section (1), clause (a) by any Court may be executed within the local limits of the jurisdiction of such Court, and it shall authorize the attachment and sale of any such property without such limits, when endorsed by the District Magistrate within the local limits of whose jurisdiction such property is found.

Suspension of execution of sentence of imprisonment.

319. (1) When an offender has been sentenced to fine only and to imprisonment in default of payment of the fine, and the fine is not paid forthwith, the Court may—

(a) order that the fine shall be payable either in full on or before a date not more than thirty days from the date of the order, or in two or three instalments, of which the first shall be payable on or before a date not more than thirty days from the date of the order and the other or others at an interval or at intervals, as the case may be, of not more than thirty days, and

(b) suspend the execution of the sentence of imprisonment and release the offender, on the execution by the offender of a bond, with or without sureties, as the Court thinks fit, conditioned for his appearance before the Court on the date or dates on or before which payment of the fine or the instalments thereof, as the case may be, is to be made; and if the amount of the fine or of any instalment, as the case may be, is not realised on or before the latest date on which it is payable under the order, the Court may direct the sentence of imprisonment to be carried into execution at once.

(2) The provisions of sub-section (1) shall be applicable also in any case in which an order for the payment of money has been made on non-recovery of which imprisonment may be awarded and the money is not paid forthwith ; and, if the person against whom the order has been made, on being required to enter into a bond such as is referred to in that sub-section, fails to do so, the Court may at once pass sentence of imprisonment.

Who may issue warrant.

320. Every warrant for the execution of any sentence may be issued either by the Judge or Magistrate who passed the sentence, or by his successor in office.

Execution of sentence of whipping only.

321. When the accused is sentenced to whipping only, the Court passing the sentence shall require the convicted person to state whether he intends to appeal against the sentence and shall record his answer in the proceedings. If the convicted person states that he intends to appeal, the Court shall postpone the execution of the sentence and require him to put in the petition of appeal within 48 hours from the time when the sentence was pronounced. If the appeal be presented within such time, the Court shall forward to the Appellate Court the appeal petition with the records of the case as early as practicable and stay execution of the sentence pending the disposal of the appeal. Between the date of the sentence and the receipt of the judgment of the Appellate Court, the convicted person may, in bailable cases, be admitted to bail, and in other cases, be committed to custody.

Execution of sentence of whipping, in addition to imprisonment.

322. (1) When the accused is sentenced to whipping in addition to imprisonment, the whipping shall not be inflicted until fifteen days from the date of the sentence, or if an appeal is made within that time, until the sentence is confirmed by the Appellate Court, but the whipping shall be inflicted as soon as practicable after the expiry of the fifteen days, or, in case of an appeal, as soon as practicable after the receipt of the order of the Appellate Court confirming the sentence.

(2) The whipping shall be inflicted in the presence of the officer in charge of the jail, unless the Judge or Magistrate orders it to be inflicted in his own presence.

(3) No accused person shall be sentenced to whipping in addition to imprisonment, when the term of imprisonment to which he is sentenced is less than three months.

Mode of inflicting punishment.

323. (1) In the case of a person of or over sixteen years of age whipping shall be inflicted with a light rattan not less than half an inch in diameter, in such mode, and on such part of the person, as Our Government directs ; and, in the case of a person under sixteen years of age, it shall be inflicted in such mode, and on such part of the person, and with such instrument, as Our Government directs.

(2) In no case shall such punishment exceed thirty stripes and, in the case of a person under sixteen years of age, it shall not exceed fifteen stripes.

Limit of number of stripes.

324. No sentence of whipping shall be executed by instalments.

Not to be executed by instalments.

325. (1) The punishment of whipping shall not be inflicted unless a medical officer, if present, certifies, or, if there is not a medical officer present, unless it appears to the Magistrate or officer present, that the offender is in a fit state of health to undergo such punishment.

Whipping not to be inflicted if offender not in fit state of health.

(2) If, during the execution of a sentence of whipping, a medical officer certifies, or it appears to the Magistrate or officer present, that the offender is not in a fit state of health to undergo the remainder of the sentence, the whipping shall be finally stopped.

Stay of execution.

326. (1) In any case in which, under section 325, a sentence of whipping is wholly or partially prevented from being executed, the offender shall be kept in custody till the Court which passed the sentence can revise it; and the said Court may, at its discretion, either remit such sentence, or sentence the offender in lieu of whipping, or in lieu of so much of the sentence of whipping as was not executed, to imprisonment for any term not exceeding twelve months or to a fine not exceeding five hundred rupees which may be in addition to any other punishment to which he may have been sentenced for the same offence.

Procedure if punishment cannot be inflicted under section 325.

(2) Nothing in this section shall be deemed to authorize any Court to inflict imprisonment for a term or a fine of an amount exceeding that to which the accused is liable by law, or that which the said Court is competent to inflict.

327. (1) When sentence is passed under this Code on an escaped convict, such sentence, if of death, fine or whipping, shall, subject to the provisions hereinbefore contained, take effect immediately, and, if of imprisonment, shall take effect according to the following rules, that is to say,—

Execution of sentences on escaped convicts.

(2) If the new sentence is severer in its kind than the sentence which such convict was undergoing when he escaped, the new sentence shall take effect immediately.

(3) When the new sentence is not severer in its kind than the sentence the convict was undergoing when he escaped, the new sentence shall take effect after he has suffered imprisonment, for a further period equal to that which, at the time of his escape remained unexpired of his former sentence.

Explanation—For the purposes of this section—

(*a*) a sentence of imprisonment with solitary confinement shall be deemed severer than a sentence of the same description of imprisonment without solitary confinement; and

(*b*) a sentence of rigorous imprisonment shall be deemed severer than a sentence of simple imprisonment with or without solitary confinement.

Sentence on offender already sentenced for another offence.

328. When a person already undergoing a sentence of imprisonment is sentenced to imprisonment, such imprisonment, shall commence at the expiration of the imprisonment, to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment by an order under section 119 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.

Appellate Court to determine the order in which sentences should be suffered.

329. If one or more of such sentences is or are set aside on appeal or revision, and there is or are still one or more sentences in force, it shall be lawful for the Appellate Court or the Court of Revision to determine the order in which the remaining sentences should be suffered and to declare that the imprisonment already suffered, if any, under the sentence or sentences set aside be taken as suffered in virtue of the sentence or sentences still in force.

Saving as to sections 327 and 328.

330. (1) Nothing in section 327 or section 328 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, and the person undergoing the sentence is after its execution to undergo a further substantive sentence or further substantive sentences, of imprisonment effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.

Return of warrant on execution of sentence.

331. When a sentence has been fully executed, the officer executing it shall return the warrant to the Court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed.

CHAPTER XXIX.

Of Suspensions, Remissions and Commutations of Sentences.

332. Any of the following sentences may, with Our sanction and without the consent of the person sentenced, be commuted for any other mentioned after it : –

Power to commute punishment.

Death, rigorous imprisonment for a term not exceeding that to which he might have been sentenced, simple imprisonment for a like term, fine.

333. Whenever, under Our command, the execution of a sentence passed upon a person has been suspended or the whole or any part of such sentence has been remitted, upon conditions accepted by the sentenced person, and any of the conditions prescribed by Us has not been fulfilled, the suspension or remission granted may be cancelled by Us, whereupon such person may be arrested by a Police Officer without warrant and remanded to undergo the unexpired portion of the sentence. The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted or one independent of his will.

Cancelment of the suspension or remission of sentences.

Nothing herein contained shall be deemed to interfere with Our right to grant pardons, reprieves, respites or remissions of punishments unconditionally.

CHAPTER XXX.

Of previous Acquittals or Convictions.

334. (1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 233 or for which he might have been convicted under section 234.

Person once convicted or acquitted not to be tried for same offence.

(2) A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under section 232, subsection (1).

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) Nothing in this section shall affect the provisions of section 18 of the General Clauses Act, 1072, or section 184 of this Code.

Explanation.—The dismissal of a complaint, the stopping of proceedings under section 248 or the discharge of the accused is not an acquittal for the purposes of this section.

Illustrations.

(*a*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or upon the same facts with theft simply, or with criminal breach of trust.

(*b*) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for, robbery.

(*c*) A is tried for causing grievous hurt and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(*d*) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(*e*) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within sub-section (3) of the section.

(*f*) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts.

(*g*) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dacoity on the same facts.

PART VII

OF APPEAL, REFERENCE AND REVISION.

CHAPTER XXXI.

OF APPEALS.

Unless otherwise provided, no appeal to lie.

335. No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

336. Any person whose application under section 77 for the delivery of property or the proceeds of the sale thereof has been rejected by any Court or against whom an order for delivery of immovable property is made under section 435 may appeal to the Court to which appeals ordinarily lie from the sentences of the former Court.

Appeal from order rejecting application for restoration of attached property.

337. Any person who has been ordered by a Magistrate other than a District Magistrate under section 114 to give security for keeping the peace or for good behaviour may appeal against such order to the District Magistrate;

Appeal from order requiring security for keeping the peace or for good behaviour.

Provided that nothing in this section shall apply to persons the proceedings against whom are laid before a Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (4) of section 119.

Appeal from order refusing to accept or rejecting a surety.

338. Any person aggrieved by an order refusing to accept or rejecting a surety under section 118 may appeal against such order,—

(a) if made by the District Magistrate, to the Court of Session; or

(b) if made by a Magistrate other than the District Magistrate, to the District Magistrate.

Appeal from sentence of Magistrate of the second or third class.

339. (1) Any person convicted on a trial held by any Magistrate of the second or third class, may appeal to the District Magistrate.

(2) The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be heard by any Magistrate of the first class subordinate to him and empowered by Our Government to hear such appeals, and thereupon such appeal or class of appeals may be presented to such subordinate Magistrate, or if already presented to the District Magistrate, may be transferred to such subordinate Magistrate. The District Magistrate may withdraw from such Magistrate any appeal or class of appeals so presented or transferred.

Transfer of appeals to first class Magistrate.

340. Any person convicted or sentenced on a trial held by a District Magistrate or other Magistrate of the first class or by a District Magistrate under section 289 or section 312 may appeal to the Court of Session:

Appeal from sentence of Magistrate of the first class.

Provided that when any person is convicted by a Magistrate of an offence under section 117 of the Travancore Penal Code, the appeal shall lie to Our High Court.

Appeal from sentence of Court of Session.

341. Any person convicted on a trial held by a Sessions Judge, or an Additional Sessions Judge may appeal to Our High Court.

342. Notwithstanding anything hereinbefore contained, where an accused person has pleaded guilty and has been convicted by a Court of Session or Magistrate of the first class on such plea, there shall be no appeal except as to the extent or legality of the sentence.

No appeal in certain cases when accused pleads guilty.

343. (1) Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a Court of Session or District Magistrate passes a sentence of fine not exceeding fifty rupees only.

No appeal in petty cases.

(2) Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in any case tried summarily in which a Magistrate empowered to act under section 258 passes a sentence of fine not exceeding ten rupees only.

Explanation.—There is no appeal from a sentence of imprisonment passed by such Court or Magistrate in default of payment of fine when no substantive sentence of imprisonment has also been passed.

344. Notwithstanding anything contained in this Chapter, when more persons than one are convicted in one trial, and an appealable judgment or order has been passed in respect of any of such persons, all or any of the persons, convicted at such trial shall have a right of appeal.

Special right of appeal in certain cases.

345. (1) Our Dewan may direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than Our High Court.

Appeal on behalf of Government in case of acquittal.

(2) The Public Prosecutor may withdraw any such appeal with the permission of Our Dewan.

Appeal on what matters admissible.

346. An appeal may be on a matter of fact as well as a matter of law.

347. Every appeal shall be made in the form of a petition in writing presented by the appellant or his pleader, and every such petition shall (unless the Court to which it is presented otherwise directs) be accompanied by a copy of the judgment or order appealed against.

Petition of appeal.

348. If the appellant is in jail, he may present his petition of appeal and the copies accompanying the same to the officer in charge of the jail, who shall thereupon forward such petition and copies to the proper Appellate Court.

Procedure when appellant in jail.

349. (1) The Appellate Court on receiving the petition and copy under section 347 or 348 shall cause notice to be given to the appellant or his pleader, and to such officer as Our Government may appoint in this behalf, of the time and place at which such appeal will be heard, and shall, on the application of such officer, furnish him with a copy of the grounds of appeal;

Notice of appeal.

and, in cases of appeals under sub-section (1) of section 345 the Appellate Court shall cause a like notice to be given to the accused.

(2) The Appellate Court may in summons or compoundable cases, give like notice to the complainant.

350. The Appellate Court shall then send for the record of the case, if such record is not already in Court. After perusing such record, and hearing the appellant or his pleader, if he appears, and the Public Prosecutor if he appears, and, in case of an appeal under section 345, the accused if he appears, the Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may—

Powers of Appellate Court in disposing of appeal.

(a) in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused be retried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law;

(b) in an appeal from a conviction, (1) reverse the finding and sentence, and acquit or discharge the accused, or order him to be retried by a Court of competent jurisdiction subordinate to such Appellate Court or committed for trial, or (2) alter the finding, maintaining the sentence, or with or without altering the finding, reduce the sentence, or (3) with or without such reduction and with or without altering the finding, alter the nature of the sentence, but subject to the provisions of section 102, sub-section (3), not so as to enhance the same;

(c) in an appeal from any other order, alter or reverse such order;

(d) make any amendment or any consequential or incidental order that may be just or proper.

351. The rules contained in Chapter XXVI as to the judgment of a Criminal Court of original jurisdiction shall apply, so far as may be practicable, to the judgment of any Appellate Court other than Our High Court whose judgment need not necessarily be in the hand-writing of the Judges:

Judgments of subordinate Appellate Courts.

Provided that, unless the Appellate Court otherwise directs, the accused shall not be brought up, or required to attend, to hear judgment delivered.

352. (1) Whenever a case is decided on appeal by Our High Court under this Chapter, it shall certify its judgment or order to the Court by which the finding, sentence or order appealed against was recorded or passed. If the finding, sentence or order was recorded or passed by a Magistrate other than the District Magistrate, the certificate shall be sent through the District Magistrate.

Order by High Court on appeal to be certified to lower Court.

(2) The Court to which Our High Court certifies its judgment or order shall thereupon make such orders as are conformable to the judgment or order of Our High Court, and, if necessary, the record shall be amended in accordance therewith.

Suspension of sentence pending appeal. Release of appellant on bail.

353. (1) Pending any appeal by a convicted person, or otherwise the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail or on his own bond.

(2) The power conferred by this section on an Appellate Court may be exercised also by Our High Court in the case of any appeal by a convicted person to a Court subordinate thereto.

(3) When the appellant is ultimately sentenced to imprisonment, the time during which he is so released shall be excluded in computing the term for which he is so sentenced.

Explanation: The suspension of only the rigorous portion of imprisonment is not a suspension of sentence within the meaning of this section.

Arrest of accused in appeal from acquittal.

354. When an appeal is presented under section 345 Our High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court, and the Court before which he is brought may commit him to prison pending the disposal of the appeal, or admit him to bail.

Appellate Court may take further evidence or direct it to be taken.

355. (1) In dealing with any appeal under this Chapter, the Appellate Court, if it thinks additional evidence to be necessary, shall record its reasons, and may either take such evidence itself, or direct it to be taken by a Magistrate, or, when the Appellate Court is Our High Court, by a Court of Session or a Magistrate.

(2) when the additional evidence is taken by the Court of Session or the Magistrate, it or he shall certify such evidence to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

(3) Unless the Appellate Court otherwise directs, the accused or his pleader shall be present when the additional evidence is taken.

(4) The taking of evidence under this section* shall, for the purposes from of Chapter XXVdeemed to be an enquiry.

Finality of orders on appeal.

356. Judgments and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in section 345 and Chapter XXXII.

Abatement of appeals.

357. Every appeal under section 345 shall finally abate on the death of the accused, and every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant.

CHAPTER XXXII.

Of Reference and Revision.

Power to call for records of inferior Courts.

358. (1) Our High Court or any Court of Session or District Magistrate may call for and examine the record of any proceeding, before any inferior Criminal Court situate within the local limits of its or his jurisdiction for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of such inferior Court and may, when calling for such record, direct that the execution of any sentence be suspended and, if the accused is in confinement, that he be released on bail or on his own bond pending the examination of the record.

Explanation.—All Magistrates, whether exercising original or appellate jurisdiction, shall be deemed to be inferior to the Court of Session for the purposes of this sub-section and of section 360.

(2) Orders under sections 141 and 142 and proceedings under section 174 are not proceedings within the meaning of this section.

(3) If an application under this section has been made either to the Court of Session or District Magistrate, no further application shall be entertained by the other of them.

Power to order inquiry.

359. On examining any record under section 358 or otherwise, the High Court may direct the District Magistrate by himself or by any of the Magistrates subordiate to him to make, and the District Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 201 or sub-section (3) of section 202 or into the case of any person accused of an offence who has been discharged:

Provided that no Court shall make any direction under this section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of showing cause why such direction should not be made.

Power to order commitment.

360. When, on examining the record of any case under section 358 or otherwise, the Court of Session or District Magistrate considers that such case is triable exclusively by the Court of Session and that an accused person has been improperly discharged by the inferior Court, the Court of Session or District Magistrate may cause him to be arrested, and may thereupon order him to be committed for trial upon the matter of which he has been, in the opinion of the Court of Session or District Magistrate, improperly discharged:

Provided as follows:—

(*a*) that the accused has had an opportunity of showing cause to such Court or Magistrate why the commitment should not be made;

(*b*) that, if such Court or Magistrate thinks that the evidence shows that some other offence has been committed by the accused, such Court or Magistrate may direct the inferior Court to inquire into such offence.

Report to High Court.

361. The Court of Session or District Magistrate may, if it or he thinks fit, on examining under section 358 or otherwise the record of any proceeding, report for the orders of the High Court the result of such examination, and, when such report contains a recommendation that a sentence be reversed or altered, may order that the execution of such sentence be suspended, and, if the accused is in confinement, that he be released on bail or on his own bond.

High Court's powers of revision.

362. (1) In the case of any proceeding the record of which has been called for by itself or which has been reported for orders, or which otherwise comes to its knowledge, Our High Court may, in its discretion, exercise any of the powers conferred on a Court of Appeal by sections 350, 353, 354 and 355 or on a Court by section 278 and may enhance the sentence.

(2) No order under this section shall be made to the prejudice of the accused unless he has had an opportunity of being heard either personally or by pleader in his own defence.

(3) Where the sentence dealt with under this section has been passed by a Magistrate the Court shall not inflict a greater punishment for the offence which, in the opinion of such Court the accused has committed, than might have been inflicted for such offence by a Magistrate of the first class.

(4) Nothing in this section shall be deemed to authorise Our High Court to convert a finding of acquittal into one of conviction.

(5) Where under this Code an appeal lies and no appeal is brought, no proceedings by way of revision shall be entertained at the instance of the party who could have appealed.

(6) Notwithstanding anything contained in this section, any convicted person to whom an opportunity has been given under sub-section (2) of showing cause why his sentence should not be enhanced shall, in showing cause, be entitled also to show cause against his conviction.

Optional with Court to hear parties.

363. No party has any right to be heard either personally or by pleader before any Court when exercising its powers of revision:

Provided that the Court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader, and that nothing in this section shall be deemed to affect section 362 sub-section (2).

364. When a case is revised under this Chapter by Our High Court, it shall, in manner hereinbefore provided by section 352 certify its decision or order to the Court by which the finding, sentence or order revised was recorded or passed, and the Court or Magistrate to which the decision or order is so certified shall thereupon make such orders as are conformable to the decision so certified; and, if necessary, the record shall be amended in accordance therewith.

High Court's order to be certified to lower Court or Magistrate.

PART VIII.

SPECIAL PROCEEDINGS.

CHAPTER XXXIII.

CRIMINAL PROCEEDINGS AGAINST EUROPEAN BRITISH SUBJECTS.

365. No Magistrate, unless he is a Special Magistrate appointed under Royal Proclamation dated 16th Edavom 1050/28th May 1875 shall inquire into or try any charge against an European British subject, except in cases of contempt of Court falling under section 392 of this Code.

Magistrates who may inquire into and try charges against European British subjects.

366. No Judge presiding in a Court of Session shall exercise jurisdiction over an European British subject, except in cases of contempt of Court falling under section 392 of this Code.

Sessions Judge not to have jurisdiction over European British subject except in cases of contempt.

367. Nothing in section 365 or section 366 shall prevent any Magistrate from taking cognizance of an offence committed by any European British subject in any case in which he could take cognizance of a like offence if committed by another person:

Cognizance of offence committed by European British subject.

Provided that, if he issues any process for the purpose of compelling the appearance of an European British subject accused of an offence, such process shall be made returnable before a Special Magistrate having jurisdiction to inquire into or try the case.

368. No such Special Magistrate shall pass any sentence on an European British subject other than imprisonment for a term which may extend to three months, or fine which may extend to one thousand British rupees, or both.

Sentences which may be passed by Special Magistrates.

369. The Special Appellate Judge appointed under Our Proclamations dated 22nd Thulam 1051, corresponding to 6th November 1875, 25th Kanni 1084/10th October 1908 and 9th Chingom 1088/24th August 1912, shall hear and dispose of appeals from the decisions of ur Special Magistrates and shall revise their proceedings.

Special Appellate Judge to hear appeals.

The Special Appellate Judge may also transfer any case, enquiry, trial or other proceeding, from any Special Magistrate subordinate to him to any other such Magistrate, after recording in writing his reasons for making the same.

370. When an European British subject is accused of any offence before such Special Magistrate, and such offence cannot, in the opinion of such Magistrate, be tried by him or be adequately punished by him, he shall commit him to such Court as His Excellency the Viceroy and Governor-General of India has appointed or many appoint, and follow such law and procedure as are in force in British India in respect of the ccmmitment of European British subjects.

When commitment to be made to a higher tribunal.

371. When any person claims to be dealt with as an European British subject, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purposes of the inquiry or trial: and such Magistrate shall inquire into the truth of such statement and allow the person making it a reasonable time, within which to prove that it is true, and shall then decide whether he is or is not an European British subject, and shall deal with him accordingly. If any such person is convicted by such Magistrate and appeals from such conviction, the burden of proving that the Magistrate's said decision was wrong shall lie upon him.

Procedure on claim of person to be dealt with as European British subject.

When any such person is committed by the Magistrate for trial before the Court of Session, and such person before such Court claims to be dealt with as an European British subject, such Court shall, after such further inquiry, if any, as it thinks fit, decide whether he is or is not an European British subject, and shall deal with him accordingly. If he is convicted by such Court and appeals from such conviction, the burden of proving that the Court's said decision was wrong shall lie upon him.

When the Court before which any person is tried decides that he is not an European British subject, such decision shall form a ground of appeal from the sentence or order passed in such trial.

372. (1) If an European British subject does not claim to be dealt with as such by the Magistrate before whom he is brought, he shall be held to have relinquished his right to be dealt with as such European British subject, and shall not assert it in any subsequent stage of the same case.

Failure to plead status a waiver.

(2) Unless the Magistrate has reason to believe that any person brought before him is not an European British subject, the Magistrate shall ask such person whether he is such a subject or not.

373. When any European British subject is unlawfully detained in custody by any person, such European British subject or any person on his behalf may apply to the Special Appellate Judge for an order directing the person detaining him to bring him before such Special Appellate Judge to abide such further order as he may pass.

Righ of European British subject unlawfully detained to apply for order to be brought before Special Appellate Judge.

374. The Special Appellate Judge, if he thinks fit, may, before issuing such order, inquire, on affidavit or otherwise, into the grounds on which it is applied for, and grant or refuse such application; or he may issue the order in the first instance, and, when the person applying for it is brought before him, he may make such further order in the case as he thinks fit, after such inquiry, if any, as he thinks necessary.

Procedure on such application.

375. Criminal Proceedings against European British subjects shall except as otherwise expressly provided, be conducted according to the provisions of this Code.

Conduct of criminal proceedings against European British subjects, before Special Magistrate and Special Appellate Judge.

376. The Special Appellate Judge appointed under Royal Proclamation dated 22nd Thulam 1051 corresponding with 6th November 1875 may exercise all or any of the powers conferred upon the High Court by Chapter XXXII in respect of cases tried or triable exclusively by Special Magistrates:

Special Appellate Judge's power of revision.

Provided that he shall not pass any higher sentence than a Special Magistrate is empowered to do under Section 368.

CHAPTER XXXIV.

LUNATICS.

377. (1) When a Magistrate holding an inquiry or a trial has reason to believe that the accused is of unsound mind and consequently incapable of making his defence, the Magistrate shall inquire into the fact of such unsoundness, and shall cause such person to be examined by the nearest medical officer of Our Government, or such other medical officer as Our Government directs, and thereupon shall examine such officer as a witness, and shall reduce the examination to writing.

Procedure in case of accused being lunatic.

(2) Pending such examination and inquiry, the Magistrate may deal with the accused in accordance with the provisions of section 379.

(3) If such Magistrate is of opinion that the accused is of unsound mind and consequently incapable of making his defence, he shall record a finding to that effect and shall postpone further proceedings in the case.

Procedure in case of person committed before Court of Session being lunatic.

378. (1) If any person committed for trial before a Court of Session appears to the Court at his trial to be of unsound mind and consequently incapable of making his defence, the Court shall, in the first instance, try the fact of such unsoundness and incapacity and if satisfied of the fact, shall record a finding to that effect and shall postpone further proceedings in the case.

(2) The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the Court.

Release of lunatic pending investigation or trial.

379. (1) Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court, as the case may be, whether the case is one in which bail may be taken or not, may release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or Court or such officer as the Magistrate or Court appoints in this behalf.

Custody of lunatic.

(2) If the case is one in which, in the opinion of the Magistrate or Court, bail should not be taken, or if sufficient security is not given, the Magistrate or Court, as the case may be, shall order the accused to be detained in safe custody in such place and manner as he or it may think fit, and shall report the action taken to Our Government:

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as Our Government may have made under the Travancore Lunacy Act, 1110.

Resumption of inquiry or trial.

380 (1) Whenever an inquiry or a trial is postponed under section 377 or section 378 the Magistrate or Court, as the case may be, may at any time resume the inquiry or trial, and require the accused to appear or be brought before such Magistrate or Court.

(2) When the accused has been released under section 379 and the sureties for his appearance produce him to the officer whom the Magistrate or Court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

381. (1) If, when the accused appears or is again brought before the Magistrate or the Court, as the case may be, the Magistrate or Court considers him capable of making his defence, the inquiry or trial shall proceed.

Procedure on accused appearing before Magistrate or Court.

(2) If the Magistrate or Court considers the accused to be still incapable of making his defence, the Magistrate or Court shall again act according to the provisions of section 377 or section 378 as the case may be, and if the accused is found to be of unsound mind and incapable of making his defence, shall deal with such accused in accordance with the provisions of section 379.

382. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act which, if he had been of sound mind, would have been an offence, and that he was, at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be committed to the Court of Session send him for trial before the Court of Session.

When accused appears to have been insane.

383. Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

Judgment of acquittal on ground of lunacy.

384. Whenever the finding states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held, shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be detained in safe custody in such place and manner as the Magistrate or Court thinks fit, and shall report the action taken to Our Government:

Person acquitted on such ground to be detained in safe custody.

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rule as Our Government may have made under the Travancore Lunacy Act 1110.

385. When any person is confined under the provisions of Section 379 or Section 384, the Surgeon-General or the Official Visitors of Jails, if such person is confined in a Jail, or the Visitors of the lunatic asylum, or any two of them, if he is confined in a lunatic asylum, may visit him in order to ascertain his state of

Lunatic prisoners to be visited by Surgeon-General.

mind; and he shall be visited once at least in every six months by such Surgeon-General or by two of such visitors as aforesaid; and such Surgeon-General or Visitors shall make a special report to Our Government as to the state of mind of such person.

Procedure where lunatic prisoner is reported capable of making his defence.

386. If such person is detained under the provisions of section 379 and such Surgeon-General or Visitors shall certify that, in his or their opinion such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of Section 381; and the certificate of such Surgeon-General or Visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic detained under section 379 or 384 is declared fit to be released.

387. (1) If such person is detained under the provisions of section 379 or Section 384, and such Surgeon-General or Visitors shall certify that, in his or their judgment he may be released without danger of his doing injury to himself or to any other person, Our Government may thereupon order him to be released or to be detained in custody or to be transferred to a public lunatic asylum if he has not been already sent to such an asylum; and, in case it orders him to be transferred to an asylum, may appoint a Commission, consisting of a judicial and two medical officers.

(2) Such Commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to Our Government, which may order his release or detention as it thinks fit.

Delivery of lunatic to care of relative or friend.

388. (1) Whenever any relative or friend of any person detained under the provisions of Section 379 or Section 384 desires that he shall be delivered to his care and custody, Our Government may, upon the application of such relative or friend and on his giving security to the satisfaction of Our Government that the person delivered shall—

(a) be properly taken care of and prevented from doing injury to himself or to any other person, and

(b) be produced for the inspection of such officer, and at such times and places, as Our Government may direct, and

(c) in the case of a person detained under Section 379, be produced when required before such Magistrate or Court,

order such person to be delivered to such relative or friend.

(2) If the person so delivered is accused of any offence the trial of which has been postponed by reason of his being of unsound mind and incapable of making his defence, and the inspecting officer referred to in sub-section (1), clause (b), certifies at any time to the Magistrate or Court that such person is capable of making his defence, such Magi-

strate or Court shall call upon the relative or friend to whom such accused was delivered to produce him before the Magistrate or Court; and, upon such production, the Magistrate or Court shall proceed in accordance with the provisions of section 381 and the certificate of the inspecting officer shall be receivable as evidence.

CHAPTER XXXV.

PROCEEDINGS IN CASE OF CERTAIN OFFENCES AFFECTING THE ADMINISTRATION OF JUSTICE.

Procedure in cases mentioned in section 190.

389. (1) When any Civil, Revenue or Criminal Court is, whether on application made to it in this behalf or otherwise of opinion that it is expedient in the interests of justice that an inquiry should be made into any offence referred to in section 190, sub-section (1), clause (b) or clause (c), which appears to have been committed in or in relation to a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary, record a finding to that effect and make a complaint thereof in writing signed by the presiding officer of the Court, and shall forward the same to the nearest Magistrate having jurisdiction, and may take sufficient security for the appearance of the accused before such Magistrate or if the alleged offence is non-bailable may, if it thinks necessary so to do, send the accused in custody to such Magistrate, and may bind over any person to appear and give evidence before such Magistrate:

Provided that, where the Court making the complaint is Our High Court, the complaint may be signed by such officer of the Court as the Court may appoint.

(2) Such Magistrate shall thereupon proceed according to law and as if upon complaint made under section 198.

(3) where it is brought to the notice of such Magistrate or of any other Magistrate to whom the case may have been transferred, that an appeal is pending against the decision arrived at in the judicial proceeding out of which the matter has arisen, he may, if he thinks fit, at any stage adjourn the hearing of the case until such appeal is decided.

Superior Court may complain where subordinate Court has omitted to do so.

390. The power conferred on Civil, Revenue and Criminal Courts by section 389, sub-section (1), may be exercised, in respect of any offence referred to therein and alleged to have been committed in or in relation to any proceeding in any such Court, by the Court to which such former Court is subordinate within the meaning of section 190, sub-section (3), in any case in which such former Court has neither made a complaint under section 389 in respect of such offence nor rejected an application for the making of such complaint; and, where the superior Court makes such complaint the provisions of section 389 shall apply accordingly.

391. Any person on whose application any Civil, Revenue or Criminal Court has refused to make a complaint under section 389 or section 390, or against whom such a complaint has been made, may appeal to the Court to which such former Court is subordinate within the meaning of section 190 sub-section (3), and the superior Court may thereupon, after notice to the parties concerned, direct the withdrawal of the complaint or, as the case may be, itself make the complaint which the subordinate Court might have made under section 389, and if it makes such complaint the provisions of that section shall apply accordingly.

Appeals.

392. (1) When any such offence as is described in section 168, section 171, section 172, section 173 or section 226 of the Travancore Penal Code is committed in the view or presence of any Civil, Criminal or Revenue Court, the Court other than Our High Court may cause the offender whether he is an European British subject or not to be detained in custody and at any time before the rising of the Court on the same day may, if it thinks fit, take cognizance of the offence and sentence the offender to fine not exceeding two hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to one month, unless such fine be sooner paid.

Procedure in certain cases of contempt.

(2) When any such offence as is described in sections 168, 171, 172, 173, 183, 226 or 502 of the Travancore Penal Code is committed in the view or presence of Our High Court, a Division Bench of Our High Court may cause the offender, whether he is a European British subject or not, to be detained in custody, and may take cognizance of the offence and sentence the offender to fine not exceeding one thousand rupees, and in default of payment, to simple imprisonment for a term which may extend to three months, unless such fine be sooner paid.

(3) When any such offence, as is described in Section 183 or section 502 of the Travancore Penal Code, is committed against Our High Court any Judge thereof, a Division Bench of Our High Court may call upon the offender to show cause why he should not be punished for contempt of Court. If the offender fails to appear to show cause as required, Our High Court may cause the offender to be arrested and brought before it. On his appearance or production before Our High Court, a Division Bench shall try the offender in the manner prescribed in Chapter XX of this Code and may sentence him to pay a fine not exceeding one thousand rupees, and in default of payment, to simple imprisonment for a term not exceeding three months, unless such fine is sooner paid. If, in the case mentioned in this para the offender desires that the case should be heard by a Full Bench, it shall be heard and decided by a Full Bench of three Judges of Our High Court :

Provided that nothing in the last preceding para of this section shall be taken to authorise Our High Court to take cognizance of oral defamation committed out of Court, as a contempt of Court.

393. (1) In every such case the Court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

Record in such cases.

(2) If the offence is under section 226 of the Travancore Penal Code, the record shall show the nature and stage of the judicial proceeding in which the Court interrupted or insulted was sitting, and the nature of the interruption or insult.

394. (1) If the Court in any case considers that the case should not be disposed of under section 392, such Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Magistrate having jurisdiction to try the same, and may require security to be given for the appearance of such accused person before such Magistrate, or if sufficient security is not given, shall forward such person in custody to such Magistrate.

Procedure where Court considers that case should not be dealt with under section 392.

(2) The Magistrate, to whom any case is forwarded under this section, shall proceed to hear the complaint against the accused person in manner hereinbefore provided.

395. When any Court has under section 392 or section 394 adjudged an offender to punishment or forwarded him to a Magistrate of trial of refusing or omitting to do anything which he was lawfully required to do or for any intentional threat, insult, interruption or defamation, Court may, in its discretion, discharge the offender or remit the punishment on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

Discharge of offender on submission of apology.

396. If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the presiding Magistrate or Judge commit him to the custody of an officer of the Court for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer, or to produce the document or thing. In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 392 or section 394.

Imprisonment or committal of person refusing to answer or produce document.

397. (1) Any person sentenced by any Court other than Our High Court under section 392 or section 396 may, notwithstanding anything hereinbefore contained, appeal to the Court to which decrees or orders made in such Court are ordinarily appealable.

Appeals from convictions in contempt cases.

(2) The provisions of Chapter XXXI shall, so far as they are applicable, apply to appeals under this section, and the Appellate Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

398. (1) Except as provided in sections 392 and 396 no Judge of a Criminal Court or Magistrate shall try any person for any offence referred to in section 190 when such offence is committed before himself or in contempt of his authority, or is brought under his notice as such Judge or Magistrate in the course of a judicial proceeding.

Certain Judges and Magistrates not to try offences referred to in section 190 when committed before themselves.

(2) Nothing in section 389 or section 394 shall prevent a Magistrate from committing any case to a Court of Session or shall prevent a Magistrate, otherwise competent, from himself trying any offence or offences committed against his own authority when such offence or offences is or are punishable under sections 165, 166, or 167 of the Travancore Penal Code.

CHAPTER XXXVI.

OF THE MAINTENANCE OF WIVES AND CHILDREN.

399. (1) If any person having sufficient means neglects or refuses to maintain his wife or his legitimate or illegitimate child unable to maintain itself, the District Magistrate, or Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, at such monthly rate, not exceeding fifty rupees in the whole, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate from time to time directs.

Order for maintenance of wives and children.

(2) Such allowance shall be payable from the date of the order, or if so ordered from the date of the application for maintenance.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in manner hereinbefore provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made.

Enforcement of order.

Provided that, if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing:

Provided, further, that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due.

(4) No wife shall be entitled to receive an allowance from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent the Magistrate shall cancel the order.

(6) All evidence under this Chapter shall be taken in the presence of the husband or father, as the case may be, or, when his personal attendance is dispensed with, in the presence of his pleader, and shall be recorded in the manner prescribed in the case of summons cases:

Provided that if the Magistrate is satisfied that he is wilfully avoiding service or wilfully neglects to attend the Court, the Magistrate may proceed to hear and determine the case *ex parte.* Any orders so made may be set aside for good cause shown on application made within three months from the date thereof.

(7) The Court in dealing with applications under this section shall have power to make such order as to costs as may be just.

(8) Proceedings under this section may be taken against any person in any district where he resides or is, or where he last resided with his wife, or, as the case may be, the mother of the illegitimate child.

Alteration in allowance.

400. (1) On proof of a change in the circumstances of any person receiving under section 399 a monthly allowance, or ordered under the same section to pay a monthly allowance to his wife or child, the Magistrate may make such alteration in the allowance as he thinks fit: Provided that if he increases the allowance the monthly rate of fifty rupees in the whole be not exceeded.

(2) Where it appears to the Magistrate that, in consequence of any decision of a competent Civil Court, any order made under section 399 should be cancelled or varied, he shall cancel the order or, as the case may be, vary the same accordingly.

Enforcement of order of maintenance.

401. A copy of the order of maintenance shall be given without payment to the person in whose favour it is made, or to his guardian, if any, or to the person to whom the allowance is to be paid, and such order may be enforced by any Magistrate in any place where the person against whom it is made may be, on such Magistrate being satisfied as to the identity of the parties and the non-payment of the allowance due.

CHAPTER XXXVII.

Directions of the Nature of a Habeas Corpus.

Power to issue directions of the nature of a habeas corpus.

402. Our High Court may, whenever it thinks fit, direct that a person illegally or improperly detained in public or private custody in any part of Travancore be set at liberty.

PART IX.

SUPPLEMENTARY PROVISIONS.

CHAPTER XXXVIII.

OF THE PUBLIC PROSECUTOR.

Power to appoint Public Prosecutors.

403. (1) Our Government may appoint, generally, or in any case, or for any specified class of cases, in any local area one or more officers to be called Public Prosecutors.

(2) The District Magistrate may, in the absence of the Public Prosecutor, or where no Public Prosecutor has been appointed, appoint any other person, not being an officer of police below such rank as Our Government may prescribe in this behalf to be Public Prosecutor for the purpose of any case.

Public Prosecutor may plead in all Courts in cases under his charge. Pleaders privately instructed to be under his direction.

404. The public Prosecutor may appear and plead without any written authority before any Court in which any case of which he has charge is under inquiry, trial or appeal, and if any private person instructs a pleader to prosecute in any Court any person in any such case, the Public Prosecutor shall conduct the prosecution, and the pleader so instructed shall act therein, under his directions.

Effect of withdrawal from prosecution.

405. Any Public Prosecutor may, with the consent of the Court, before the judgement is pronounced, withdraw from the prosecution of any person either generally or in respect of any one or more of the offences for which he is tried; and upon such withdrawal,—

(*a*) if it is made before a charge has been framed, the accused shall be discharged in respect of such offence or officers,

(*b*) if it is made after a charge has been framed, or when under this Code no charge is required, he shall be acquitted in respect of such offence or offences.

Permission to conduct prosecution.

406. (1) Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police below the rank to be prescribed by our Government in this behalf but no person, other than the *Advocate General*, or other officer generally or specially empowered by Our Government in this behalf, shal be entitled to do so without such permission.

(2) Any such officer shall have the like power of withdrawing from the prosecution as is provided by section 405 and the provisions of that section shall apply to any withdrawal by such officer,

(3) Any person conducting the prosecution may do so personally or by a pleader.

(4) An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted.

CHAPTER XXXIX.

OF BAIL.

In what cases bail to be taken.

407. When any person other than a person accused of a non-bailable offence is arrested or detained without warant by an officer in charge of a police-station or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceedings before such Court to give bail, such person shall be released on bail: Provided that such officer or Court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided:

Provided, further, that nothing in this section shall be deemed to affect the provisions of section 103 sub-section (4), or section 113, sub-section (3).

When bail may be taken in case of non-bailable offence.

408. (1) When any person accused of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police-station, or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused:

Provided that the Court may direct that any person under the age of sixteen years or any woman or any sick or infirm person accused of such an offence be released on bail.

(2) If it appears to such officer or Court at any stage of the investigation, inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed a non-bailable offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

(3) An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2) shall record in writing his or its reasons for so doing.

(4) If, at any time after the conclusion of the trial of a person accused of a non-bailable offence and before judgment is delivered, the Court is of opinion that there are reasonable grounds for believing that the accused is not guilty of any such offence, it shall release the accused if he is in custody on the execution by him of a bond without sureties, for his appearance to hear judgment delivered.

(5) Our High Court or Court of Session and, in the case of a person released by itself, any other Court may cause any person who has been released under this section to be arrested and may commit him to custody.

Power to direct admission to bail or reduction of bail.

409. The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive; and Our High Court or Court of Session may, in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a police-officer or Magistrate be reduced.

Bond of accused and sureties.

410. (1) Before any person is released on bail or released on his own bond, a bond for such sum of money as the police-officer or Court, as the case may be, thinks sufficient shall be executed by such person, and, when he is released on bail, by one or more sufficient sureties conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed by the police-officer or Court, as the case may be.

(2) If the case so require, the bond shall also bind the person released on bail to appear when called upon at the Court of Session or other Court to answer the charge.

Discharge from custody.

411. (1) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and, when he is in jail, the Court admitting him to bail shall issue an order of release to the officer in charge of the jail, and such officer on receipt of the order shall release him.

(2) Nothing in this section, section 407 or section 408 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

Power to order sufficient bail when that first taken is insufficient.

412. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the Court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do, may commit him to jail.

413. (1) All or any sureties for the attendance and appearance of a person released on bail may at any time apply to a Magistrate to discharge the bond, either wholly or so far as relates to the applicants.

Discharge of sureties.

(2) On such application being made, the Magistrate shall issue his warrant of arrest directing that the person so released be brought before him.

(3) On the appearance of such person pursuant to the warrant or on his voluntary surrender, the Magistrate shall direct the bond to be discharged either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and, if he fails to do so, may commit him to custody.

CHAPTER XL.

OF COMMISSIONS FOR THE EXAMINATION OF WITNESSES.

414. (1) Whenever, in the course of an inquiry, a trial or any other proceeding under this Code, it appears to a District Magistrate, a Court of Session or Our High Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate or Court may dispense with such attendance and may issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

When attendance of witness may be dispensed with.

Issue of commission and procedure thereunder.

(2) When the witness resides out of Travancore, the commission may be issued to any Magistrate in the territory where the witness resides and forwarded for execution in such manner as Our Government may direct.

(3) The Magistrate to whom the commission is issued, or if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under this Code.

415. (1) The parties to any proceeding under this Code in which a commission is issued, may respectively forward any interrogatories in writing which the Magistrate or Court directing the commission may think relevant to the issue, and the Magistrate to whom the commission is directed, shall examine the witness upon such interrogatories.

Parties may examine witnesses.

(2) Any such party may appear before such Magistrate by pleader, or if not in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

416. Whenever, in the course of an inquiry or a trial or any other proceeding under this Code before any Magistrate other than a District Magistrate, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate shall apply to the District Magistrate, stating the reasons for the application; and the District Magistrate may either issue a commission in the manner hereinbefore provided or reject the application.

Power of subordinate Magistrate to apply for issue of commission.

417. (1) After any commission issued under section 414 or section 416 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Court out of which it issued; and the commission, the return thereto and the deposition shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

Return of commission.

(2) Any deposition so taken, if it satisfies the conditions prescribed by section 33 of the Travancore Evidence Act, may also be received in evidence at any subsequent stage of the case before another Court.

418. In every case in which a commission is issued under section 414 or section 416 the inquiry, trial or other proceeding may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

Adjournment of inquiry or trial.

CHAPTER XLI.

Special Rules of Evidence.

419. (1) The deposition of a Surgeon or other medical witness, taken and attested by a Magistrate in the presence of the accused, or taken on commission under Chapter XL, may be given in evidence in any inquiry, trial or other proceeding under this Code, although the deponent is not called as a witness.

Deposition of medical witness.

(2) The Court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

Power to summon medical witness.

420. Any document purporting to be a report under the hand of the Chemical Examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.

Report of Chemical Examiner.

421. In any inquiry, trial or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force—

Previous conviction or acquittal how proved.

(a) by an extract certified under the hand of the officer having the custody of the records of the Court in which such conviction or acquittal was had to be a copy of the sentence or order, or,

(b) in case of a conviction, either by a certificate signed by the officer in charge of the Jail in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered;

together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

422. (1) If it is proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the Court competent to try or commit for trial such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions. Any such deposition may, on the arrest of such person, be given evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence or his attendance cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable.

Record of evidence in absence of accused.

(2) If it appears that an offence punishable with death or inprisonment for life has been committed by some person or persons unknown, Our High Court may direct that any Magistrate of the first class shall hold an inquiry and examine any witnesses who can give evidence concerning the offence. Any depositions so taken may be given in evidence against any person who is subsequently accused of the offence, if the deponent is dead or incapable of giving evidence or beyond the limits of Travancore.

Record of evidence when offender unknown.

CHAPTER XLII.

PROVISIONS AS TO BONDS.

423. When any person is required by any Court or officer to execute a bond, with or without sureties, such Court or officer may, except in the case of a bond for good behaviour, permit him to deposit a sum of money or Government promissory notes to such amount as the Court or officer may fix, in lieu of executing such bond.

Deposit instead of recognizance.

424. (1) Whenever it is proved to the satisfaction of the Court by which a bond under this Code has been taken, or of the Court of the Magistrate of the District,

Procedure on forfeiture of bond.

or, when the bond is for appearance before a Court, to the satisfaction of such Court,

that such bond has been forfeited, the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.

(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the moveable property belonging to such person or his estate if he be dead.

(3) Such warrant may be executed within the local limits of the jurisdiction of the Court which issued it; and it shall authorise the attachment and sale of any moveable property belonging to such person without such limits, when endorsed by the District Magistrate within the local limits of whose jurisdiction such property is found.

(4) If such penalty is not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment in the civil jail for a term which may extend to six months.

(5) The Court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

(6) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond.

(7) When any person who has furnished security under section 102 or section 114 or section 471 is convicted of an offence the commission of which constitutes a breach of the conditions of his bond or of a bond executed in lieu of his bond under section 426 a certified copy of the judgment of the Court by which he was convicted of such offence may be used as evidence in proceedings under this section against his surety or sureties, and, if such certified copy is so used, the Court shall presume that such offence was committed by him unless the contrary is proved.

425. When any surety to a bond under this Code becomes insolvent or dies, or when any bond is forfeited under the provisions of section 424, the Court by whose order such bond was taken, or the Magistrate of the District, may order the person from whom such security was demanded to furnish fresh security in accordance with the directions of the original order, and, if such security is not furnished, such Court or Magistrate may proceed as if there had been a default in complying with such original order.

Procedure in case of insolvency or death of surety or when a bond is forfeited.

426. When the person required by any Court or officer to execute a bond is a minor, such Court or Officer may accept, in lieu thereof a bond executed by a surety or sureties only.

Bond required from a minor.

427. All orders passed under section 424 by any Magistrate other than a District Magistrate, shall be appealable to the District Magistrate, or, if not so appealed, may be revised by him.

Appeal from, and revision of orders under section 424.

428. Our High Court or Court of Session may direct any Magistrate to levy the amount due on a bond to appear and attend at such High Court or Court of Session.

Power to direct levy of amount due on certain recognizances.

CHAPTER XLIII.

OF THE DISPOSAL OF PROPERTY.

429. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy or natural decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Order for custody and disposal of property pending trial in certain cases.

430. (1) When an inquiry or a trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal by destruction, confiscation, or delivery to any person claiming to be entitled to possession thereof or otherwise of any property or document produced before it or in its custody, or regarding which any offence is alleged or appears to have been committed, or which has been used for the commission of any offence.

Order for disposal of property regarding which offence committed.

(2) When a Court of Session makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried into effect by the District Magistrate.

(3) When an order is made under this section such order shall not, except where the property is livestock or subject to speedy and natural decay and save as provided by sub-section (4), be carried out until the period allowed for presenting such appeal has passed, or, when an appeal is presented, until such appeal has been disposed of.

(4) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of sub-section (1) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court, engaging to restore such property to the Court if the order made under this section is modified or set aside on appeal.

Explanation.—In this Section the term "property" includes in the case of property regarding which an offence is alleged or appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

Order may take form of reference to District Magistrate.

431. In lieu of itself passing an order under section 430, the Court may direct the property to be delivered to the District Magistrate who shall in such cases deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

Payment to innocent purchaser of money found on accused.

432. When any person is convicted of any offence which includes or amounts to, theft or receiving stolen property, and it is proved that any other person has bought the stolen property from him without knowing or having reason to believe, that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

Stay of order under section 430, 431 or 432.

433. Any Court of appeal, confirmation, reference or revision may direct any order under section 430, section 431 or section 432 passed by a Court subordinate thereto to be stayed pending consideration by the former Court, and may modify, alter or annul such order and make any further orders that may be just.

Destruction of libellous and other matter.

434. (1) On a conviction under the Travancore Penal Code, section 290, section 291, section 504 or section 505, the Court may order the destruction of all the copies of the thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted.

(2) The Court may, in like manner, on a conviction under the Travancore Penal Code, section 270, section 271, section 272 or section 273, order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed.

Power to restore possession of immovable property.

435. (1) If, in any case in which the offence charged is attended by criminal force or show of force or by criminal intimidation it appears to the Court that by such force or show of force or criminal intimidation any person has been dispossessed of any immoveable property the Court may, if it thinks fit, order the person dispossessed to be restored to the possession of the same

(2) No such order shall prejudice any right or interest to or in such immovable property which any person may be able to establish in a civil suit.

(3) An order under this section may be made by any Court of appeal, confirmation, reference or revision.

Procedure by police upon seizure of property taken under section 38 or stolen.

436. (1) The seizure by any police-officer of property taken under section 38, or alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall make such order as he thinks fit respecting the disposal of such property or the delivery of such property to the person entitled to the possession thereof, or, if such person cannot be ascertained, respecting the custody and production of such property.

Procedure where owner of property seized unknown.

(2) If the person so entitled is known, the Magistrate may order the property to be delivered to him on such conditions (if any) as the Magistrate thinks fit. If such person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.

Procedure where no claimant appears within six months.

437. (1) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property shall be at the disposal of Our Government, and may be sold under the orders of the District Magistrate or of a Magistrate of the first class.

(2) In the case of every order passed under this section, an appeal shall lie to the Court to which appeals against sentence of the Court passing such order would lie.

Power to sell perishable property.

438. If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay, or if the Magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, the Magistrate may at any time direct it to be sold; and the provisions of sections 436 and 437 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

CHAPTER XLIV.

OF THE TRANSFER OF CRIMINAL CASES.

43J. (1) Whenever it is made to appear to Our High Court:—

High Court may transfer case or itself try it.

(a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(b) that some question of law of unusual difficulty is likely to arise, or

(c) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same, or

(d) that an order under this section will tend to the general convenience of the parties or witnesses, or

(e) that such an order is expedient for the ends of justice, or is required by any provision of this Code; it may order—

(i) that any offence be inquired into or tried by any Court not empowered under sections 175 to 180 (both inclusive), but in other respects competent to inquire into or try such offence;

(ii) that any particular case or appeal, or class of cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(iii) that any particular appeal be transferred to and tried before itself; or

(iv) that an accused person be committed for trial to a Court of Session.

(2) Our High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative.

(3) Every application for the exercise of the power conferred by this section shall be made by motion, which shall, except when the applicant is the Advocate General, be supported by affidavit or affirmation.

(4) When an accused person makes an application under this section, Our High Court may direct him to execute a bond, with or without sureties, conditioned that he will, if so ordered, pay any amount which Our High Court may under this section award by way of compensation to the person opposing the application.

Notice to Public Prosecutor of application under this section.

(5) Every accused person making any such application shall give to the Public Prosecutor notice in writing of the application, together with a copy of the grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

(6) Where any application for the exercise of the power conferred by this section is dismissed, Our High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding fifty rupees as it may consider proper in the circumstances of the case.

(7) Nothing in this section shall be deemed to affect any order made under section 194.

Adjournment on application under this section.

(8) If in any inquiry under Chapter VIII or Chapter XVIII or in any trial, any party interested intimates to the court at any stage before the defence closes its case that he intends to make an application under this section the Court shall, upon his executing, if so required a bond without sureties, of an amount not exceeding fifty rupees, that he will make such application within a reasonable time to be fixed by the Court, adjourn the case for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon:

Provided that nothing herein contained shall require the Court to adjourn the case upon a second or subsequent intimation from the same party, or, where an adjournment under this sub-section has already been obtained by one of several accused, upon a subsequent intimation by any other accused.

(9) Notwithstanding anything hereinbefore contained, a Judge presiding in a Court of Session shall not be required to adjourn a trial under sub-section (8) if he is of opinion that the person notifying his intention of making such an application under this section has had a reasonable opportunity of making such an application and has failed without sufficient cause to take advantage of it.

Explanation.—Nothing contained in sub-section (8) or sub-section (9) restricts the powers of a Court under section 284.

(10) If, in an appeal before the argument for the appellant begins any party interested intimates to the Court that he intends to make an application under this section, the Court shall, upon such party executing, if so required a bond without sureties of an amount not exceeding fifty rupees that he will make such application within a reasonable time to be fixed by the Court, postpone the appeal for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon.

District Magistrate may withdraw or refer cases.

440. (1) Any District Magistrate may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may inquire into or try such case himself, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

Power to authorise District Magistrate to withdraw classes of cases.

(2) Our Government may authorise the District Magistrate to withdraw from any Magistrate subordinate to him either such classes of cases as he thinks proper, or particular classes of cases.

(3) Any Magistrate may recall any case made over by him under section 188, sub-section (2), to any other Magistrate and may inquire into or try such case, himself.

(4) A Magistrate making an order under this section shall record in writing his reasons for making the same.

CHAPTER XLV.

Of Irregular Proceedings.

Irregularities which do not vitiate proceedings.

441. If any Magistrate not empowered by law to do any of the following things, namely:—

(*a*) to issue a search-warrant under section 86;

(*b*) to order, under section 153, the police to investigate an offence;

(*c*) to hold an inquest under section 174;

(*d*) to issue process, under section 182, for the apprehension of a person within the local limits of his jurisdiction who has committed an offence outside such limits;

(*e*) to take cognizance of an offence under section 186, sub-section (1), clause (*a*) or clause (*b*);

(*f*) to transfer a case under section 188;

(*g*) to tender a pardon under section 277 or section 278;

(*h*) to sell property under section 437 or section 438; or

(*i*) to withdraw a case and try it himself under section 440;

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

Irregularities which vitiate proceedings.

442. If any Magistrate, not being empowered by law in this behalf, does any of the following things, namely:—

(*a*) attaches and sells property under section 76;

(*b*) issues a search warrant for a letter, parcel or other thing in the Anchal Office or any document in the custody of the telephone authority;

(*c*) demands security to keep the peace;

(*d*) demands security for good behaviour;

(*e*) discharges a person lawfully bound to be of good behaviour;

(*f*) cancels a bond to keep the peace;

(*g*) makes an order under section 130 as to a local nuisance;

(*h*) prohibits, under section 141, the repetition or continuance of a public nuisance;

(*i*) issues an order under section 142;

(*j*) makes an order under Chapter XII;

(*k*) takes cognizance, under section 186, sub-section (2), of an offence

(*l*) passes a sentence, under section 289, on proceedings recorded by another Magistrate;

(*m*) calls, under section 358 for proceedings;

(n) makes an order for maintenance;
(o) revises, under section 427, an order passed under section 424;
(p) tries an offender;
(q) tries an offender summarily; or
(r) decides an appeal

his proceedings shall be void.

Proceedings in wrong place.

443. No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceedings in the course of which it was arrived at or passed, took place in a wrong sessions division, district or other local area or that the preliminary inquiry into the case tried by a Sessions Court, was held by a Second or Third Class Magistrate in the absence of a complaint or police report unless it appears that such error has in fact occasioned a failure of justice.

Non-compliance with provisions of section 162 or 301.

444. (1) If any Court, before which a confession or other statement of an accused person recorded or purporting to be recorded under section 162 or section 301 is tendered or has been received in evidence, finds that any of the provisions of either of such sections have not been complied with by the Magistrate recording the statement, it shall take evidence that such person duly made the statement recorded: and, notwithstanding anything contained in the Travancore Evidence Act, section 91 such statement shall be admitted if the error has not injured the accused as to his defence on the merits.

(2) The provisions of this section apply to Courts of Appeal, Reference and Revision.

Effect of omission to prepare charge.

445. (1) No finding or sentence pronounced or passed shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of the Court of appeal or revision, a failure of justice has in fact been occasioned thereby.

(2) If the Court of appeal or revision thinks that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge be framed, and that the trial be recommenced from the point immediately after the framing of the charge.

Finding or sentence when reversible by reason of error or omission in charge or other proceedings.

446. Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered under Chapter XXVII or on appeal or revision on account of any error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Code, unless such error, omission or irregularity, has in fact occasioned a failure of justice.

Explanation.—In determining whether any error, omission or irregularity in any proceeding under this Code has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.

447. No attachment made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, writ of attachment or other proceedings relating thereto.

Attachment not illegal, person making same not trespasser for defect or want of form in proceedings.

CHAPTER XLVI.

MISCELLANEOUS.

448. Affidavits and affirmations to be used before Our High Court may be sworn and affirmed before such Court or any officer appointed by such Court for that purpose.

Courts and persons before whom affidavits may be sworn.

449. (1) When any application is made to any Court in the course of any inquiry, trial or other proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

Affidavit in proof of conduct of public servant.

An affidavit to be used before any Court other than a High Court under this section may be sworn or affirmed in the manner prescribed in section 448 or before any Magistrate.

Affidavits under this section shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable grounds to believe to be true, and, in the latter case, the deponent shall clearly state the grounds of such belief.

(2) The Court may order any scandalous and irrelevant matter in an affidavit to be struck out or amended.

450. (1) Any Judge or Magistrate may at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection.

Local Inspection.

(2) Such memorandum shall form part of the record of the case. If the Public Prosecutor, complainant or accused so desires, a copy of the memorandum shall be furnished to him free of cost.

451. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

Power to summon material witness or examine person present.

452. (1) At any stage of an inquiry or trial under this Code, where two or more accused are before the Court, if the Judge or Magistrate is satisfied, for reasons to be recorded, that any one or more of such accused is or are incapable of remaining before the court, he may, if such accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused.

Provision for inquiries and trial being held in the absence of accused in certain cases.

(2) If the accused in any such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit, and for reasons to be recorded by him, either adjourn such inquiry or trial or order that the case of such accused be taken up or tried separately.

453. (1) Unless when otherwise provided by any law for the time being in force, Our Government may direct in what place any person liable to be imprisoned or committed to custody under this Code shall be confined.

Power to appoint place of imprisonment.

(2) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

Removal to criminal jail of accused or convicted persons who are in confinement in civil jail, and their return to the civil jail.

(3) When a person is removed to a criminal jail under sub-section (2), he shall, on being released therefrom, be sent back to the civil jail, unless:—

(*a*) six months have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under the Code of Civil Procedure; or

(*b*) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under the Code of Civil Procedure.

454. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

Interpreter to be bound to interpret truthfully.

455. Subject to any rules made by Our Government, any Criminal Court may, if it thinks fit, order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code.

Expenses of complainants and witnesses.

456. (1) Whenever under any law in force for the time being a Criminal Court imposes a fine or confirms in appeal, revision or otherwise a sentence of fine, or a sentence of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

Power of Court to pay expenses or compensation out of fine.

(a) in defraying expenses properly incurred in the prosecution;

(b) in the payment to any person of compensation for any loss or injury caused by the offence, when substantial compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;

(c) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any *bona fide* purchaser, of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

(2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

457. At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under section 456.

Payments to be taken into account in subsequent suit.

458. (1) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it convicts the accused, may in addition to the penalty imposed upon him, order him to pay to the complainant—

Order of payment of certain fees paid by complainant in non-cognizable cases

(a) the fee (if any) paid on the petition of complaint; and

(b) any fees paid by the complainant for serving processes on his witnesses;

and may further order that, in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days.

(2) An order under this section may also be made by an Appellate Court, or by Our High Court, when exercising its powers of revision.

Moneys ordered to be paid recoverable as fines.

459. Any money (other than a fine) payable by virtue of any order made under this Code, and the method of recovery of which is not otherwise expressly provided for shall be recoverable as if it were a fine.

Copies of proceedings.

460. If any person affected by a judgment or order passed by a Criminal Court desires to have a copy of any order or deposition or other part of the record he shall, on applying for such copy, be furnished therewith:

Provided that he pays for the same, unless the Court, for some special reason, thinks fit to furnish it free of cost.

Delivery to military authorities of persons liable to be tried by Court-martial.

461. (1) Our Government may make rules consistent with this Code and the standing orders of Our State Forces and any similar law for the time being in force as to the cases in which persons subject to military, naval or air force law, shall be tried by a Court to which this Code applies or by Court-martial, and when any person is brought before a Magistrate and charged with an offence for which he is liable, to be tried either by a Court to which this Code applies or by a Court-martial, such Magistrate shall have regard to such rules, and shall in proper cases deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the regiment, corps, ship or detachment, to which he belongs for the purpose of being tried by Court-martial.

Apprehension of such persons.

(2) Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of Our State Forces, use his utmost endeavours to apprehend and secure any person accused of such offence.

Powers to Police to seize property suspected to be stolen.

462. Any police-officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. Such police-officer, if subordinate to the officer in charge of a police-station, shall forthwith report the seizure to that officer.

Powers of superior officers of police.

463. Police-officers superior in rank to an officer in charge of a police-station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station.

464. Whenever any Magistrate appointed under section 11 or 12 is prevented from discharging his duties for a period of time during which a successor cannot be or has not been appointed by Our Government, the District Magistrate may, during such period of time, direct any Magistrate subordinate to him to discharge the duties of such first-named Magistrate: Provided that the appointment shall not confer higher powers than those possessed by the Magistrate so appointed.

Temporary arrangements for the conduct of work during the absence of a Magistrate.

465. Upon complaint made to a District Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of sixteen years, for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

Power to compel restoration of abducted females.

466. (1) Our High Court may,—

Power of High Court to make rules.

(*a*) make rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and for the preparation and transmission of any returns or statements to be prepared and submitted by such Courts;

(*b*) frame forms for every proceeding in the said Courts for which it thinks that a form should be provided;

(*c*) make rules for regulating its own practice and proceedings and the practice and proceedings of all Criminal Courts subordinate to it; and

(*d*) make rules for regulating the execution of warrants issued under this Code for the levy of fines:

Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.

(2) All rules made under this section shall be published in Our Government Gazette.

467. No Judge or Magistrate shall, try or commit for trial any case to or in which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself.

Case in which Judge or Magistrate is personally interested.

Explanation.—A Judge or Magistrate shall not be deemed a party, or personally interested, within the meaning of this section, to or in any case by reason only that he is a Municipal Commissioner or otherwise concerned therein in a public capacity, or by reason only that he

has viewed the place in which an offence is alleged to have been committed, or any other place in which any other transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

Officers concerned in sales not to purchase or bid for property.

468. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.

Special provisions with respect to offence of rape by a husband.

469. (1) Notwithstanding anything in this Code, no Magistrate except a District Magistrate shall—

(a) take cognizance of the offence or rape where the sexual intercourse was by a man with his wife, or

(b) commit the man for trial for the offence.

(2) And, notwithstanding anything in this Code, if a District Magistrate deems it necessary to direct an investigation by a police-officer, with respect to such an offence as is referred to in sub-section (1), no police-officer of a rank below that of police-inspector shall be employed either to make, or to take part, in the investigation.

Saving of inherent power of High Court.

470. Nothing in this Code shall be deemed to limit or affect the inherent power of Our High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

First Offenders.

Power of Court to release certain convicted offenders on probation of good conduct instead of sentencing to imprisonment.

471. (1) When any person not under twenty-one years of age is convicted of an offence punishable with imprisonment for not more than seven years, or when any person under twenty-one years of age or any woman is convicted of an offence not punishable with death or imprisonment for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behaviour:

Provided that, where any first offender is convicted by a Magistrate of the third class, or a Magistrate of the second class not specially empowered by Our Government in this behalf, and the Magistrate is of opinion that the powers conferred by this section should be exercised,

he shall record his opinion to that effect, and submit the proceedings to a Magistrate of the first class forwarding the accused to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in manner provided by section 312.

Conviction and release with admonition.

(2) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Travancore Penal Code punishable with not more than two years imprisonment and no previous conviction is proved against him, the Court before whom he is so convicted may if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition.

(3) An order under this section may be made by any Appellate Court or by the High Court when exercising its power of revision.

(4) When an order has been made under this section in respect of any offender, Our High Court may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on such offender according to law:

Provided that the High Court shall not under this sub-section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

(5) The provisions of sections 118, 122, and 338 shall, so far as may be, apply in the case of sureties offered in pursuance of the provisions of this section.

Provision in case of offender failing to observe conditions of his recognizances.

472. (1) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(2) An offender, when apprehended on any such warrant, shall be brought forthwith before the Court issuing the warrant, and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence. Such Court may, after hearing the case, pass sentence, or release him.

Condition as to abode of offender.

473. (1) The Court, before directing the release of an offender under section 471, shall be satisfied that the offender or his surety (if any) has a fixed place of abode or regular occupation in the place in which the Court has jurisdiction or in which the offender is likely to live during the period named for the observance of the condition.

(2) Nothing in this section or in sections 471 and 472 shall affect the provisions of the Reformatory Schools Act.

Previously convicted offenders.

474. (1) When any person having been convicted—

Order for notifying address of previously convicted offender.

(*a*) by a court in Travancore of an offence punishable under section 210, section 492A, section 492B, section 492C or section 492D of the Travancore Penal Code, or of any offence punishable under Chapter XII or Chapter XVII of that Code with imprisonment of either description for a term of three years or upwards, or

(*b*) by a Court in British India, of any offence which would, if committed in Travancore have been punishable under any of the aforesaid sections or Chapters of the Travancore Penal Code with like imprisonment for a like term,

is again convicted of any offence punishable under any of those sections or Chapters with imprisonment for a term of three years or upwards by a Court of Session, or District Magistrate, such Court or Magistrate may, if it or he thinks fit, at the time of passing sentence of imprisonment on such person, also order that his residence and any change of or absence from such residence after release be notified as hereinafter provided for a term not exceeding five years from the date of the expiration of such sentence.

(2) If such conviction is set aside on appeal or otherwise, such order shall become void.

(3) Our Government may make rules to carry out the provisions of this section relating to the notification of residence or change of or absence from residence by released convicts.

(4) An order under this section may also be made by an Appellate Court or by Our High Court when excercising its powers of revision.

(5) Any person charged with a breach of any such rule may be tried by a Magistrate of competent jurisdiction in the district in which the place last notified by him as the place of residence is situated.

Pending cases.

475. The provisions of this Code shall apply, so far as may be, to all cases pending in any Criminal Court when this Code comes into force, but if the trial in any particular case has already commenced, it must be conducted under the rules of procedure in force at the commencement of the trial.

Pending cases.

SCHEDULE I.

ACTS REPEALED.

(See Section 2.)

No. and year.	Subject.	Extent of repeal.
Act V of 1067	The Code of Criminal Procedure.	The whole.
Act II of 1074	An Act to amend the Code of Criminal Procedure.	Do.
Act III of 1074	Do.	Do.
Act IV of 1082	Do.	Do.
Act VII of 1085	Do.	Do.
Act VII of 1088	Do.	Do.
Act II of 1090	Do.	Do.
Act IV of 1094	The Travancore Criminal Law Amendment Act, 1094.	Sections 11, 12, 13, 14, 15 and 16.
Act III of 1095	An Act to amend the Code of Criminal Procedure.	The whole.
Act VI of 1097	Do.	Do.
Act IX of 1097	The Travancore Election Offences and Enquiries Act, 1097.	Section 3.
Act XII of 1097	An Act to amend the Code of Criminal Procedure.	The whole.
Act III of 1107	The Travancore Criminal Law Amendment Act, 1107.	Sections VII and VIII.
Act III of 1114	The Travancore Criminal Law Amendment Act, III of 1114.	Section 4.
Act X of 1114	The Travancore Criminal Law (Amendment) Act X of 1114.	Sections 3 and 4.

SCHEDULE II.

TABULAR STATEMENT OF OFFENCES.

Explanatory Note.—The entries in the second and seventh columns of this Schedule, headed respectively "Offence" and "Punishment under the Travancore Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding Sections of the Travancore Penal Code or even as abstracts of those Sections, but merely as references to the subject of the Section, the number of which is given in the first column.

Chapter V.—Abetment.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.?	Whether ailable or not.	Whether compoundable or not.	Punishment under the Penal Code.	By what Court triable.
99	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	The same punishment as for the offence abetted.	The Court by which the offence abetted is triable.
100	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Do.	Do.	Do.	Do.	Do.	Do.
101	Abetment of any offence, when one act is abetted and a different act is done; subject to the proviso.	Do.	Do.	Do.	Do.	The same punishment as for the offence intended to be abetted.	Do.
103	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor.	Do.	Do.	Do.	Do.	The same punishment as for the offence committed.	Do.

104	Abetment of any offence, if abettor is present when offence is committed.	Do.	Do.	Do.	Do.	Do	Do.
105	Abetment of an offence punishable with death or imprisonment for life, if the offence be not committed in consequence of the abetment.	Do.	Do.	Not bailable.	Do.	Imprisonment of either description for 7 years and fine.	Do.
	If an act which causes harm be done in consequence of the abetment.	Do.	Do.	Do.	Do.	Imprisonment of either description for 14 years and fine	Do.
106	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Do.	Do.	According as the offence abetted is bailable or not.	Do.	Imprisonment extending to a quarter part of the longest term, and of any description provided for the offence or fine, or both.	Do.
	If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.	Do.	Do.	Do.	Do.	Imprisonment extending to half of the longest term, and of any description provided for the offence, or fine or both.	Do.
107	Abetting the commission of an offence by the public, or by more than ten persons.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years, or fine, or both.	Do.
108	Concealing a design to commit an offence punishable with death or imprisonment for life, if the offence be committed.	Do.	Do.	Not bailable	Do.	Imprisonment of either description for 7 years and fine.	Do.
	If the offence be not committed.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years and fine.	Do.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Penal Code.	8 By what Court triable.
109	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	According as the offence abetted is compoundable or not.	Imprisonment extending to half of the longest term, and of any description provided for the offence, or fine, or both.	The Court by which the offence abetted is triable.
	If the offence be punishable with death or imprisonment for life.	Do.	Do.	Not bailable.	Do.	Imprisonment of either description for 10 years.	Do
	If the offence be not committed.	Do.	Do	According as the offence abetted is bailable or not.	Do.	Imprisonment extending to a quarter part of the longest term and of any description provided for the offence, or fine, or both.	Do.
110	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Do.	Do	According as the offence concealed is bailable or not.	According as the offence concealed is compoundable or not.	Do.	The Court by which the offence concealed is triable.
	If the offence be not committed.	Do.	Do.	Do.	Do.	Imprisonment extending to one-eighth part of the longest term, and of the description provided for the offence, or fine, or both.	Do.

Chapter VA.—Criminal Conspiracy.

110 B	Criminal conspiracy to commit an offence punishable with death, or rigorous imprisonment for a term of 2 years or upwards.	May arrest without warrant if arrest for the offence which is the object of the conspiracy may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence which is the object of the conspiracy.	According as the offence which is the object of the conspiracy is bailable or not.	Not compoundable.	The same punishment as that provided for the abetment of the offence which is the object of the conspiracy.	Court of Session when the offence which is the object of the conspiracy is triable exclusively by such court; in the case of all other offences Court of Session or Magistrate of the First Class.
	Any other criminal conspiracy.	Shall not arrest without a warrant.	Summons.	Bailable	Do.	Imprisonment of either description for 6 months or fine or both.	Magistrate of the First Class.

Chapter VI—Offences against the State.

111	Regicide or attempt to commit regicide.	Shall not arrest without warrant.	Warrant	Not bailable.	Not compoundable.	Death.	Court of Session.
	Assault on, restraint or confinement of, or hurt to the person of the Sovereign.	Do.	Do.	Do.	Do.	Imprisonment of either description for 10 years and fine.	Do.

CHAPTER VI—OFFENCES AGAINST THT STATE—(*contd.*)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Penal Code.	8 By what Court triable.
112	Waging or attempting to wage war, or abetting the waging of war, against the Sovereign of this kingdom or the Queen Empress of India.	Shall not arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	Death or imprisonment for life, and forfeiture of property.	Court of Session.
113	Conspiring to commit certain offences against the State.	Do.	Do.	Do.	Do.	Imprisonment for life or imprisonment of either description for 10 years.	Do.
114	Collecting arms, &c., with the intention of waging war against the Queen-Empress of India or against the Sovereign of this kingdom.	Do.	Do.	Do.	Do.	Imprisonment for life or imprisonment of either description for 10 years, and forfeiture of property.	Do.
115	Concealing with intent to facilitate a design to wage war.	Do.	Do.	Do.	Do.	Imprisonment of either description for 10 years and fine.	Do.
116	Assaulting &c., Dewan, with intent to compel or restrain the exercise of any lawful power.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Do.

117	Exciting, or attempting to excite, disaffection.	Do.	Do.	Do.	Do.	Imprisonment for life or for any term and fine, or fine.	Court of Session or District Magistrate or Magistrate of the first Class specially empowered by Our Government in that behalf.
118	Waging or attempting to wage war or abetting the waging of war against any Native State under the Suzerainty of the Queen-Empress of India.	Do.	Do.	Do.	Do.	Imprisonment for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Court of Session.
119	Committing depredation in British India or on the territories of any Native State under the Suzerainty of the Queen-Empress of India.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Do.
120	Receiving property taken by war or depredation mentioned in Sections 118 and 119.	Do.	Do.	Do.	Do.	Do.	Do.
121	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Do.	Do.	Do.	Do.	Imprisonment of either description for 10 years and fine.	Do.
122	Public servant negligently suffering prisoner of State or War in his custody to escape.	Do.	Do.	Bailable.	Do.	Simple imprisonment for 3 years, and fine.	Do.
123	Aiding escape of, rescuing or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Do.	Do.	Not bailable.	Do.	Imprisonment of either description for 10 years, and fine.	Do.

Chapter VII—Offences Relating to the Army.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Penal Code.	8 By what Court triable.
124	Abetting mutiny in the Army of the Queen Empress of India, or in the State Forces or attempting to seduce any such officer or soldier, sailor or airman.	May arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session.
125	Abetment of mutiny, if mutiny is committed in consequence thereof.	Do.	Do.	Do.	Do.	Death or imprisonment for life or imprisonment of either description for 10 years and fine.	Do.
126	Abetment of an assault by an officer, soldier, sailor or airman on his superior officer.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the First Class.
127	Abetment of such assault, if the assault is committed.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Court of Session.
128	Abetment of the desertion of any officer or soldier, sailor or airman.	Do.	Do.	Bailable.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the First or Second Class.
129	Harbouring a deserter.	Do.	Do.	Do.	Do.	Do.	Do.

130	Abetment of act of insubordination by an officer, soldier, sailor or airman.	Do.	Do.	Do.	Do.	Imprisonment of either description for 6 months, or fine, or both.	Do.
131	Wearing the dress of an officer or soldier, &c., with intent to personate such officer soldier, sailor or airman.	Do.	Summons.	Do.	Do.	Imprisonment of either description for 3 months, or fine of Rs. 500, or both.	Any Magistrate.
132	Purchasing arms, ammunition, &c., from an officer or soldier.	Shall not arrest without warrant.	Warrant.	Do.	Do.	Imprisonment of either description for 3 years, or fine of Rs. 2,000, or both.	Court of Sessions or Magistrate of the First Class.

CHAPTER VIII—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

135	Being member of an unlawful assembly.	May arrest without warrant	Summons	Bailable.	Not compoundable.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
136	Joining an unlawful assembly armed with any deadly weapon.	Do.	Warrant.	Do.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Do.
137	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Do.	Do	Do.	Do.	Do.	Do.
139	Rioting.	Do.	Do	Do.	Do	Imprisonment of either description for 2 years, or fine or both.	Do.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not	6 Whether compoundable or not.	7 Punishment under the Penal Code.	8 By what Court triable.
140	Rioting armed with a deadly weapon.	May arrest without warrant	Warrant.	Bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the First Class.
141	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	Do.	The same as for the offence.	The Court by which the offence is triable.
142	Hiring, engaging or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged or employed.	Do.	Do.	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Do.
143	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Do.	Summons.	Bailable.	Do.	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.

144	Assaulting or obstructing public servant when suppressing riot, &c.	Do.	Warrant.	Do.	Do.	Imprisonment of either description for 3 years, or fine, or both.	Court of Sessions or Magistrate of the First Class.
145	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Do.	Do.	Do.	Do.	Imprisonment of either description for one year, or fine or both.	Any Magistrate
	If not committed.	Do.	Summons.	Do.	Do.	Imprisonment of either description for 6 months, or fine, or both.	Do.
145 A	Promoting enmity between classes.	Shall not arrest without warrant.	Warrant.	Not bailable.	Do.	Imprisonment of either description for two years or fine, or both.	Magistrate of the First Class.
146	Owner or occupier of land not giving information of riot, &c.	Do.	Summons.	Bailable	Do.	Fine of 1,000 Rs.	Magistrate of the First or Second Class
147	Person for whose benefit or on whose behalf a riot takes place, not using all lawful means to prevent it.	Do	Do.	Do.	Do.	Fine.	Do.
148	Agent of owner or occupier for whose benefit a riot is committed. not using all lawful means to prevent it.	Do.	Do.	Do.	Do.	Do.	Do.
149	Harbouring persons hired for an unlawful assembly.	May arrest without warrant	Do.	Do.	Do	Imprisonment of either description for 6 months, or fine, or both.	Do.
150	Being hired to take part in an unlawful assembly or riot.	Do.	Do	Do.	Do	Do.	Do.

Chapter VIII—Offences against the Public Tranquillity—(*contd.*)

1	2	3	4	5	6	7	8
Section	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not	Whether compoundable or not	Punishment under the Penal Code.	By what Court triable
	Or to go armed.	May arrest without warrant	Warrant	Bailable	Not compoundable	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the First or Second Class
152	Committing affray.	Shall not arrest without warrant.	Summons	Do.	Do	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Any Magistrate
	Chapter IX.—Offences by or relating to Public Servants.						
153	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Do.	Do.	Do.	Do	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the First Class.
154	Taking a gratification in order, by corrupt or illegal means, to influence a public servant.	Do.	Do.	Do.	Do.	Do.	Do.
155	Taking a gratification for the exercise of personal influence with a public servant.	Do.	Do.	Do.	Do.	Simple imprisonment for 1 year, or fine, or both	Magistrate of the First Class.
156	Abetment by public servant of the offences defined in the last two	Do.	Do.	Do.	Do.	Imprisonment of either	Court of Session

	preceding clauses with reference to himself.					description for three years, or fine, or both.	or Magistrate of the First Class.
157	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Do.	Do.	Do.	Do.	Simple imprisonment for 2 years, or fine, or both.	Magistrate of the First Class.
158	Public servant disobeying a direction of the law with intent to cause injury to any person.	Do.	Do.	Do.	Do.	Simple imprisonment for 1 year, or fine, or both.	Do.
159	Public servant framing an incorrect document with intent to cause injury.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the First Class.
160	Public servant unlawfully engaging in trade.	Do.	Do.	Do.	Do.	Simple imprisonment for 1 year, or fine, or both.	Magistrate of the First Class.
161	Public servant unlawfully buying or bidding for property.	Do.	Do.	Do.	Do.	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Do.
162	Personating a public servant.	May arrest without warrant.	Warrant.	Do	Do	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
163	Wearing garb or carrying token used by public servant with fraudulent intent.	Do.	Summons.	Do.	Do.	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Do.
164	Sexual intercourse by a public servant with a woman under his official control.	Shall not arrest without warrant.	Do.	Do.	Do.	Imprisonment of either description for 5 years and fine.	Court of Session or Magistrate of the First Class.

Chapter IX A.—Offences relating to Elections.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Penal Code.	8 By what Court triable.
164E	Bribery.	Shall not arrest without warrant.	Summons.	Bailable.	Not compoundable.	Imprisonment of either description for one year or fine, or both, or if treating only, fine only.	Magistrate of the First Class.
164F	Undue influence and personation at an election.	Do.	Do.	Do.	Do.	Imprisonment of either description for one year, or fine or both.	Do.
164 G	False statement in connection with an election.	Do.	Do.	Do.	Do.	Fine.	Do.
164 H	Illegal payments in connection with elections.	Do.	Do.	Do.	Do.	Fine of 500 rupees.	Do.
164I	Failure to keep election accounts.	Do.	Do.	Do.	Do.	Do.	Do.

Chapter X—Contempts of the Lawful Authority of Public Servants.

1 Section.	2 Offence.	3	4	5	6	7	8
165	Absconding to avoid service of summons or other proceeding from a public servant.	Do.	Do.	Do.	Do.	Simple imprisonment for one month or fine of 500 rupees. or both.	Any Magistrate
166	Preventing the service, or the affixing of any summons or notice or the removal of it when it has been affixed or preventing a proclamation.	Do	Do.	Do.	o.	Simple imprisonment for one month or fine of 500 rupees or both.	Do.
165-166	If summons, &c., require attendance in person, etc., in a Court of Justice.	Do.	Do.	Do	Do.	Simple imprisonment for 6 months or fine of 1000 rupees or both.	Do.

167	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Do.	Do.	Do.	Do.	Simple imprisonment for 1 month, or fine of 500 rupees or both.	Do.
	If the order require personal attendance, etc., in a Court of Justice.	Do.	Do.	Do.	Do.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Do.
168	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Do.	Do.	Do.	Do.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or if not committed in a Court, any Magistrate.
	If the document is required to be produced in or delivered to a Court of Justice.	Do.	Do.	Do.	Do.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Do.
169	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Do.	Do.	Do.	Do.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate of the First or Second Class.
	If the notice or information required respects the commission of an offence, etc.	Do.	Do.	Do.	Do.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Do.
	If the notice or information is required by an order passed under Sub-Section (1) of Sec. 474 of this Code.	Do.	Do.	Do.	Do.	Imprisonment of either description for 6 months or fine of 1,000 rupees or both.	Do.
170	Knowingly furnishing false information to a public servant.	Do.	Do.	Do.	Do.	Simple imprisonment for 1 month, or fine of 1,000 rupees, or both.	Do.

1	2	3	4	5	6		8
Section.	Offence.	Whether the police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not.	Whether compoundable or not.	Punishment under the Penal Code.	By what Court triable.
	If the information required respects the commission of an offence, etc.	Shall not arrest without warrant	Summons.	Bailable.	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the First or Second Class.
171	Refusing oath when duly required to take oath by a public servant.	Do.	Do.	Do.	Do.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV; or, if not committed in a Court, Magistrate of the First or Second Class.
172	Being legally bound to state truth and refusing to answer questions.	Do.	Do.	Do.	Do.	Do.	Do.
173	Refusing to sign a statement made to a public servant when legally required to do so.	Do.	Do.	Do.	Do.	Simple imprisonment for 3 months, or fine of 500 rupees or both.	Do.
174	Knowingly stating to a public servant on oath as true that which is false	Do.	Warrant.	Do.	Do.	Imprisonment of either description for 3 years and fine.	Court of Session, or Magistrate of the First Class.

175	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person	Do.	Summons	Do.	Do.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the First or Second Class.
176	Resistance to the taking of property by the lawful authority of a public servant	Do.	Do.	Do.	Do.	Do.	Do.
177	Obstructing sale of property offered for sale by authority of a public servant	Do.	Do.	Do.	Do.	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Do.
178	Bidding by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale or bidding without intending to perform the obligations incurred thereby.	Do.	Do.	Do.	Do.	Imprisonment of either description for 1 month, or fine of 200 rupees or both.	Do.
179	Obstructing public servant in discharge of his public functions.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Do.
180	Omission to assist public servant when bound by law to give such assistance.	Do.	Do.	Do.	Do.	Simple imprisonment for 1 month, or fine of 200 rupees or both.	Do.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences etc.	Do.	Do.	Do.	Do.	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Do.
181	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance or injury to persons lawfully employed.	Do.	Do.	Do.	Do.	Simple imprisonment for 1 month, or fine of 200 rupees, or both	Do.
	If such disobedience causes danger to human life, health or safety, etc.	Do.	Do.	Do.	Do.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Do.

Chapter XI—False Evidence and Offences Against Public Justice—(*contd.*)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Penal Code.	8 By what Court triable.
182	Disobedience to an order of Government relating to places of worship or procession.	Shall not arrest without warrant.	Summons.	Bailable.	Not compoundable.	Fine not exceeding 500 rupees.	Magistrate of the First Class.
183	Threatening a public servant with injury to him, or one in whom he is interested to induce him to do or forbear to do any official act.	Do.	Do.	Do.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the First or Second Class.
184	Threatening any person to induce him to refrain from making legal application for protection from injury	Do.	Do.	Do.	Do.	Imprisonment of either description for 1 year, or fine, or both.	Do.

Chapter XI—False Evidence and Offences Against Public Justice—(*contd*)

187	Giving or fabricating false evidence in a judicial proceeding.	Do.	Warrant	Do.	Do.	Imprisonment of either description for 7 years and fine.	Court of Session or Magistrate of the First Class.
	Giving or fabricating false evidence in any other case	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years and fine.	Do.
188	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Do.	Do.	Not bailable.	Do.	Imprisonment for life or rigorous imprisonment for 10 years and fine	Court of Session.
	If innocent person be thereby convicted and executed.	Do.	Do.	Do.	Do.	Death or as above.	Do.

189	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment for life or with imprisonment for 7 years or upwards.	Do.	Do.	Do.	Do.	The same as for the offence.	Do.
190	Using in a judicial proceeding evidence known to be false or fabricated.	Do.	Do.	According as the offence of giving such evidence is bailable or not.	Do.	The same as for giving or fabricating false evidence.	Do.
191	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Do.	Do.	Bailable.	Do.	The same as for giving false evidence.	Do.
192	Using as a true certificate one known to be false in a material point.	Do.	Do.	Do.	Do.	Do.	Do.
193	False statement made in any declaration which is by law receivable as evidence.	Do	Do.	Do.	Do.	Do.	Do.
194	Using as true any such declaration known to be false.	Do	Do.	Do.	Do.	Do.	Do.
195	Receiving illegal gratification for giving evidence.	Do	Summons.	Do.	Do.	Simple imprisonment for 6 months, or fine of 200 rupees, or both	Magistrate of the First Class.
	If the evidence is to be given in any stage of a judicial proceeding.	Do.	Do.	Do.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Do.
196	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Do.	Warrant.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Court of Session.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Penal Code.	8 By what Court triable.
	If punishable with imprisonment for life or imprisonment for 10 years.	Shall not arrest without warrant	Warrant.	Bailable.	Not compoundable.	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the First Class.
	If punishable with less than 10 years' imprisonment.	Do.	Do.	Do.	Do.	Imprisonment for a quarter of the longest term and of the description provided for the offence, or fine, or both.	Magistrate of the First Class or Court by which the offence is triable.
197	Intentional omission to give information of an offence by a person legally bound to inform.	Do.	Summons.	Do.	Do.	Imprisonment of either description for 6 months, or fine, or both.	Magistrate of the First or Second Class.
198	Giving false information respecting an offence committed.	Do.	Warrant	Do.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Do.
199	Secreting or destroying any document to prevent its production as evidence.	Do.	Do.	Do.	Do.	Do.	Magistrate of the First Class.
200	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the First Class.

201	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Do.	Do.	Do.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the First Class.
202	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Do.	Do.	Do.	Do.	Do.	Do.
203	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Do.	Do.	Do.	Do.	Do.	Do.
204	False claim in a Court of Justice.	Do.	Do.	Do.	Do.	Imprisonment of either description for 2 years and fine.	Do.
205	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Do.	Do.	Do.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Do
206	False charge of offence made with intent to injure.	Do.	Do.	Do.	Do.	Do.	Do.
	If offence charged be capital, or punishable with imprisonment for life or with imprisonment for 7 years or upward.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Court of Session.
207	Harbouring an offender, if the offence be capital.	May arrest without warrant.	Do.	Do.	Do.	Imprisonment of either description for 5 years and fine.	Do.
	If punishable with imprisonment for life or with imprisonment for 10 years.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the First Class.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not	7 Punishment under the Penal Code.	8 By what Court triable.
	If punishable with imprisonment for 1 year and not for 10 years.	May arrest without warrant.	Warrant.	Bailable.	Not compoundable.	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both.	District Magistrate or Magistrate of the First Class or Court by which the offence is triable.
208	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Court of Session.
	If punishable with imprisonment for life or with imprisonment for 10 years	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the First Class.
	If with imprisonment for less than 10 years.	Do.	Do.	Do.	Do	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both.	District Magistrate or Magistrate of the First Class or Court by which the offence is triable.
209	Offering gift or restoration of property in consideration of screening offender, if the offence be capital	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Court of Session.
	If punishable with imprisonment for life or with imprisonment for 10 years.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the First Class.

	If with imprisonment for less than 10 years.	Do.	Do.	Do.	Do.	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both.	Magistrate of the First Class or Court by which the offence is triable.
210	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Do.	Do.	Do.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the First Class.
211	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Court of Session
	If punishable with imprisonment for life or with imprisonment for 10 years.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years, with or without fine.	Do.
	If with imprisonment for 1 year, and not for 10 years.	Do.	Do.	Do.	Do.	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both.	Magistrate of the First Class or Court by which the offence is triable.
212	Harbouring robbers or dacoits.	Do.	Do.	Do.	Do.	Rigorous imprisonment for 7 years and fine.	Court of Session or Magistrate of the First Class.
214	Public servant disobeying a direction of law with intent to save person from punishment or property from forfeiture.	Shall not arrest without warrant.	Summons.	Do.	Do.	Imprisonment of either description, for 2 years, or fine, or both.	Magistrate of the First or Second Class.
215	Public servant framing an incorrect record or writing with intent to save person from punishment or property from forfeiture.	Do.	Warrant.	Do.	Do.	Imprisonment of either description, for 3 years, or fine, or both.	Court of Session
216	Public servant in a judicial proceeding corruptly making and pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years, or fine, or both.	Do.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Penal Code.	8 By what Court triable.
217	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Shall not arrest without warrant.	Warrant.	Bailable.	Not compoundable.	Imprisonment of either description for 7 years, or fine, or both.	Court of Session
218	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years, with or without fine.	Do.
	If punishable with imprisonment for life or imprisonment for 10 years	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years, with or without fine.	Court of Session or Magistrate of the First Class.
	If with imprisonment for less than 10 years.	Do.	Do.	Do.	Do.	Imprisonment of either description for 2 years, with or without fine.	Magistrate of the First or Second Class.
219	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death	Do.	Do.	Not bailable.	Do.	Imprisonment for life or imprisonment of either description for 14 years, with or without fine.	Court of Session
	If under sentence of imprisonment for life or imprisonment for 10 years or upwards.	Do.	Do.	Do	Do.	Imprisonment of either description for 7 years, with or without fine.	Do.
	If under sentence of imprisonment for less than 10 years or lawfully committed to custody.	Do.	Do.	Bailable.	Do.	Imprisonment of either description for 3 years, or fine or both.	Court of Session or Magistrate of the First Class.

220	Escape from confinement, negligently suffered by a public servant.	Do.	Summons.	Do.	Do.	Simple imprisonment for 2 years, or fine, or both.	Magistrate of the First or Second Class.
221	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant.	Do.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Do.
222	Resistance or obstruction to the lawful apprehension of another person or rescuing him from lawful custody.	Do.	Do.	Do.	Do.	Do.	Do.
	If charged with an offence punishable with imprisonment for life or imprisonment for 10 years.	Do	Do.	Not bailable	Do.	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the First Class.
	If charged with a capital offence.	Do	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Court of Session.
	If the person is sentenced to imprisonment for life or imprisonment for 10 years or upwards.	Do.	Do.	Do.	Do.	Do.	Do.
	If under sentence of death	Do	Do.	Do.	Do.	Imprisonment for life or imprisonment of either description for 10 years and fine.	Do.
223	Omission to apprehend or sufferance of escape by public servant in cases not otherwise provided for, if intentional.	Shall not arrest without warrant.	Summons.	Bailable	Do	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the First or Second Class.
	If negligently.	Do.	Do.	Do.	Do.	Simple imprisonment for 2 years, or fine, or both.	Magistrate of the First or Second Class.
224	Resistance or obstruction to lawful apprehension or escape or rescue in cases not otherwise provided for.	May arrest without warrant.	Warrant	Do.	Do.	Imprisonment of either description for 6 months or fine or both.	Do.

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—(contd.)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Penal Code.	8 By what Court triable.
225	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Punishment of original sentence or, if part of the punishment has been undergone, the residue.	The Court by which the original offence was triable.
226	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Do.	Do.	Do.	Do.	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	The Court in which the offence is committed, subject to the provisions of Chapter XXXV of this Code.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

1	2	3	4	5	6	7	8
228	Counterfeiting or performing any part of the process of counterfeiting coin.	May arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
229	Counterfeiting or performing any part of the process of counterfeiting the Sirkar coin.	Do.	Do.	Do.	Do.	Imprisonment for life or imprisonment of either description for 10 years and fine.	Do.
230	Making, buying or selling instrument for the purpose of counterfeiting coin.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the First Class.

231	Making, buying or selling instrument for the purpose of counterfeiting the Sirkar coin.	Do.	Do	Do.	Do.	Imprisonment of either description for 7 years and fine.	Court of Session.
232	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the First Class.
	If Sirkar coin.	Do.	Do.	Do.	Do.	Imprisonment of either description for 10 years and fine.	Court of Session.
233	Abetting, in Travancore, the counterfeiting, out of Travancore, of coin.	Do.	Do.	Do.	Do.	The punishment provided for abetting the counterfeiting of such coin within Travancore.	Do.
234	Import or export of counterfeit coin, knowing the same to be counterfeit.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the First Class.
235	Import or export of counterfeits of the Sirkar coin, knowing the same to be counterfeit.	Do.	Do.	Do.	Do.	Imprisonment for life or imprisonment of either description for 10 years and fine.	Court of Session.
236	Having any counterfeit coin known to be such when it came into possession and delivering &c., the same to any person.	Do.	Do.	Do.	Do.	Imprisonment of either description for 5 years and fine.	Do.
237	The same with respect to the Sirkar coin.	Do.	Do.	Do.	Do.	Imprisonment of either description for 10 years and fine.	Do.
238	Knowingly delivering to another any counterfeit coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit.	Do.	Do.	Do.	Do.	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Magistrate of the First Class.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Penal Code.	8 By what Court triable.
239	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	May arrest without warrant	Warrant.	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the First Class.
240	Possession of Sirkar coin by a person who knew it to be counterfeit when he became possessed thereof.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Court of Session.
241	Person employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Do.	Do.	Do.	Do.	Do.	Do.
242	Unlawfully taking from a Mint any coining instrument.	Do.	Do.	Do.	Do	Do.	Do.
243	Fraudulently diminishing the weight or altering the composition of any coin.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the First Class.
244	Fraudulently diminishing the weight or altering the composition of the Sirkar coin.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Court of Session.
245	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years and fine.	Do.
246	Altering appearance of the Sirkar coin with intent that it really pass as a coin of a different description.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Do.
247	Delivery to another of coin possessed with the knowledge that it is altered.	Do.	Do.	Do.	Do.	Imprisonment of either description for 5 years and fine.	Do.

248	Delivery of Sirkar coin possessed with the knowledge that it is altered.	Do.	Do.	Do.	Do.	Imprisonment of either description for 10 years and fine.	Do.
249	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years, and fine.	Do.
250	Possession of Sirkar coin by a person who knew it to be altered when he became possessed thereof	Do.	Do.	Do.	Do.	Imprisonment of either description for 5 years and fine.	Do.
251	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered.	Do.	Do.	Do.	Do.	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Magistrate of the First or Second Class.
252	Counterfeiting a Government stamp	Do.	Do.	Bailable.	Do.	Imprisonment for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
253	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Do.	Do	Do.	Do.	Imprisonment of either description for 7 years and fine.	Do.
254	Making, buying or selling instrument for the purpose of counterfeiting a Government stamp.	Do.	Do.	Do.	Do.	Do.	Do.
255	Sale of counterfeit Government stamp.	Do.	Do.	Do.	Do.	Do.	Do.
256	Having possession of a counterfeit Government stamp.	Do.	Do.	Do.	Do.	Do	Do.
257	Using as genuine a Government stamp known to be counterfeit.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years, or fine, or both.	Do.
258	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause loss to Government.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the First Class.
259	Using a Government stamp known to have been before used.	Do.	Do.	Do.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the First or Second Class.

Chapter XII.—Offences relating to Coin and Government Stamps—(contd.)

Section. 1	Offence. 2	Whether the Police may arrest without warrant or not. 3	Whether a warrant or a summons shall ordinarily issue in the first instance. 4	Whether bailable or not. 5	Whether compoundable or not. 6	Punishment under the Penal Code. 7	By what Court triable. 8
260	Erasure of mark denoting that stamp has been used.	May arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine or both.	Court of Session or Magistrate of the First Class.
261	Making, uttering, dealing in or selling fictitious stamp or knowingly using the same for any Postal or Anchal purpose or being in possession of such stamp or making or being in possession of any die, plate, instrument or materials for making such stamp.	Do.	Do.	Bailable.	Do.	Fine of 200 rupees and seizure of such stamp, instrument, &c.	Magistrate of the First or Second Class.

Chapter XIII.—Offences relating to Weights and Measures.

262	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons.	Bailable.	Not compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the First or Second Class.
263	Fraudulent use of false weight or measure.	Do.	Do.	Do.	Do.	Do.	Do.
264	Being in possession of false weights or measures for fraudulent use.	Do.	Do.	Do.	Do.	Do.	Do.
265	Making or selling false weights or measures for fraudulent use.	Do.	Do.	Do.	Do.	Do.	Do.

Chapter XIV.—Offences affecting the Public Health, Safety, Convenience, Decency and Morals.

267	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons.	Bailable.	Not Compoundable.	Imprisonment of either description for 6 months, or fine or both.	Magistrate of the First or Second Class.

268	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Do.	Do.	Do.	Do.	Imprisonment or either description for 2 years, or fine or both.	Do.
269	Knowingly disobeying any quarantine rule.	Shall not arrest without warrant.	Do.	Do.	Do.	Imprisonment of either description for 6 months, or fine, or both.	Do.
270	Adulterating food or drink intended for sale, so as to make the same noxious.	Do.	Do.	Do.	Do.	Imprisonment of either description for 6 months. or fine of 1,000 rupees, or both.	Magistrate of the First Class.
271	Selling any food or drink as food and drink knowing the same to be noxious.	Do.	Do.	Do.	Do.	Do.	Do.
272	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation or to make it noxious.	Do.	Do.	Do.	Do.	Do	Do.
273	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Do	Do.	Do	Do.	Do.	Do.
274	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Do.	Do.	Do	Do.	Do.	Do.
275	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Do.	Do.	Do.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
276	Making atmosphere noxious to health.	Shall not arrest without warrant.	Do.	Do.	Do.	Fine of 500 rupees.	Do.
277	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Do.	Do.	Do.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Do.
278	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Do.	Do.	Do.	Do.	Do.	Magistrate of the First or Second Class.

1	2	3	4	5	6	7	8
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance	Whether bailable or not.	Whether compoundable or not.	Punishment under the Penal Code.	By what Court triable.
279.	Exhibition of a false light, mark or buoy.	May arrest without warrant.	Warrant.	Bailable.	Not compoundable.	Imprisonment of either description for 7 years, or fine or both.	Court of Session.
280	Conveying for hire any person by water in a vessel in such a state or so loaded, as to endanger his life.	Do.	Summons.	Do.	Do.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the First or Second Class.
281	Causing danger, obstruction or injury in any public way or line of navigation.	Do.	Do.	Do.	Do.	Fine of 200 rupees.	Any Magistrate.
282	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Do.	Do.	Do.	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Do.
283	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Do.	Do.	Do.	Do.	Do.
284	So dealing with any explosive substance.	Do.	Do.	Do	Do.	Do.	Do.
285	So dealing with any machinery.	Shall not arrest without warrant.	Do.	Do.	Do.	Do.	Magistrate of the First or Second Class.
286	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Do	Do.	Do.	Do.	Do.	Do.

287	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal.	May arrest without warrant.	Do.	Do.	Do.	Do.	Any Magistrate.
288	Committing a public nuisance.	Shall not arrest without warrant.	Do.	Do.	Do.	Fine of 200 rupees.	Do.
289	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Do.	Do.	Do.	Simple imprisonment for 6 months, or fine, or both.	Magistrate of the First or Second Class.
290	Sale, &c., of obscene books &c.	Do.	Warrant.	Do.	Do.	Imprisonment of either description for 3 months, or fine, or both.	Do.
291	Having in possession obscene book, &c., for sale or exhibition.	Do.	Do.	Do.	Do.	Do.	Do.
292	Obscene acts and songs.	Do.	Do.	Do.	Do.	Do.	Do.
293	Keeping a lottery office	Shall not arrest without warrant.	Summons.	Do.	Do.	Imprisonment of either description for 6 months or fine, or both.	Any Magistrate.
	Publishing proposals relating to lotteries.	Do.	Do.	Do.	Do.	Fine of 1,000 rupees.	Do.

Chapter XV.—Offences Relating to Religion.

294	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Do.	Do.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the First Class.
294A	Maliciously insulting the religion or religious beliefs of any class.	Shall not arrest without warrant.	Warrant.	Not bailable.	Do.	Do.	Court of Sessions or Magistrate of the First Class.
295	Causing a disturbance to an assembly engaged in religious worship.	May arrest without warrant.	Summons.	Bailable.	Do.	Imprisonment of either description for 1 year, or fine or both.	Magistrate of the First Class.
296	Trespassing in place of worship or sepulchure, disturbing funerall with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Do.	Do.	Do.	Do.	Do.	Do.

CHAPTER XV – OFFENCES RELATING TO RELIGION—(*contd.*)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishable under the Penal Code.	8 By what Court triable.
297	Uttering any word or making any sound in the hearing, or making any gesture or placing any object in the sight, of any person, with intent to wound his religious feeling.	Shall not arrest without warrant.	Summons	Bailable.	Compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the First Class.

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY.

Of Offences affecting Life.

301	Murder.	May arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	Death, or imprisonment for life, and fine.	Court of Session.
302	Murder by a person under sentence of imprisonment for life.	Do.	Do.	Do	Do.	Death.	Do.
303	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Do.	Do.	Do.	Do.	Imprisonment for life, or imprisonment of either description for 10 years and fine.	Do.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Do.	Do.	Do.	Do.	Imprisonment of either description for 10 years, or fine, or both.	Do.
304	Causing death by rash or negligent act.	Do.	Do.	Bailable.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Do.

305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	Do.	Do.	Not bailable.	Do.	Death, or imprisonment for life, or imprisonment of either description for 10 years and fine.	Do.
306	Abetting the commission of suicide.	Do.	Do.	Do.	Do.	Imprisonment of either description for 10 years and fine.	Do.
307	Attempt to murder.	Do.	Do.	Do.	Do.	Do.	Do.
	If such act cause hurt to any person.	Do.	Do.	Do.	Do.	Imprisonment for life, or as above.	Do.
	Attempt by life-convict to murder, if hurt is caused.	Do	Do.	Do.	Do.	Death.	Do.
308	Attempt to commit culpable homicide.	Do.	Do.	Bailable.	Do.	Imprisonment of either description for 3 years, or fine, or both.	Do.
	If such act cause hurt to any person	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years, or fine, or both.	Do.
309	Attempt to commit suicide.	Do.	Do.	Do.	Do.	Simple imprisonment for one year, or fine, or both.	Magistrate of the First or Second Class.
311	Being a thug.	Do.	Do.	Not bailable.	Do.	Imprisonment for life and fine.	Court of Session.

Of the Causing of Miscarriage; of injuries to Unborn Children; of the Exposure of infants; and of the Concealment of Births.

312	Causing miscarriage.	Shall not arrest without warrant	Warrant.	Bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
	If the woman be quick with child.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine	Do.
313	Causing miscarriage without woman's consent.	Do.	Do.	Not bailable.	Do.	Imprisonment for life or imprisonment of either description for 10 years and fine.	Do.
314	Death caused by act done with intent to cause miscarriage.	Do.	Do.	Do	Do.	Imprisonment of either description for 10 years and fine.	Do.

Of the Causing of Miscarriage; of injuries to Unborn Children; of the Exposure of infants; and of the Concealment of Births.—(Continued.)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Penal Code.	8 By what Court triable.
	If act done without woman's consent.	Shall not arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	Imprisonment for life, or as above.	Court of Session.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Do.	Do.	Do.	Do.	Imprisonment of either description for 10 years, or fine, or both	Do.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Do.	Do.	Do.	Do.	Imprisonment of either description for 10 years and fine.	Do.
317	Exposure of a child under 12 years of age by parent or person having care of it, with intention of wholly abandoning it.	May arrest without warrant.	Do.	Bailable.	Do.	Imprisonment of either description for 7 years, or fine, or both.	Do.
318	Concealment of birth by secret disposal of dead body.	Do.	Do.	Do.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Do.

Of Hurt.

323	Voluntarily causing hurt.	Shall not arrest without warrant.	Summons.	Do.	Compoundable	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	Do.	Do.	Compoundable when permission is given by the Court before which a prosecution is	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the First or Second Class.

25	Voluntarily causing grievous hurt.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Do.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Do.	Do.	Not bailable.	Not compoundable.	Imprisonment for life or imprisonment of either description for 10 years and fine	Court of Session or Magistrate of the First Class.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	Do.	Warrant.	Do.	Do.	Imprisonment of either description for 10 years and fine.	Court of Session.
328	Administering stupefying drug with intent to cause hurt, etc.	Do.	Do.	Do.	Do	Do	Do.
329	Voluntarily causing grievous hurt to extort property or a valuable security or to constrain to do anything which is illegal or which may facilitate the commission of an offence.	Do.	Do.	Do.	Do.	Imprisonment for life, or imprisonment of either description for 10 years and fine.	Do.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, etc.	Do.	Do	Bailable.	Do.	Imprisonment of either description for 7 years and fine.	Do.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property etc.	Do.	Do.	Not bailable.	Do.	Imprisonment of either description for 10 years and fine.	Do.
332	Voluntarily causing hurt to deter public servant from his duty.	Do.	Do.	Bailable.	Do.	Imprisonment of either description for 3 years, or fine, or both	Court of Session or Magistrate of the First Class.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Do.	Do.	Not bailable.	Do.	Imprisonment of either description for 10 years and fine	Court of Session.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Shall not arrest without warrant.	Summons	Bailable.	Compoundable.	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Any Magistrate.

Chapter XVI.—Offences affecting the Human Body.—(*continued.*)

Of Hurt.—Continued.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	6 Punishment under the Penal Code	8 By what Court triable.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	May arrest without warrant.	Summons.	Bailable.	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	Court of Session or Magistrate of the First or Second Class.
336	Doing any act which endangers human life or the personal safety of others.	Do.	Do.	Do.	Not compoundable.	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Any Magistrate.
337	Causing hurt by any act which endangers human life, etc.	Do.	Do.	Do.	Compoundable when permission is given by the Court before which a prosecution is pending.	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Magistrate of the First or Second Class.
338	Causing grievous hurt by an act which endangers human life, etc.	Do.	Do.	Do.	Do.	Imprisonment of either description for 2 years, or fine of 1 000 rupees, or both.	

Of Wrongful Restraint and Wrongful Confinement.

341	Wrongfully restraining any person.	May arrest without warrant.	Summons.	Bailable.	Compoundable.	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate

342	Wrongfully confining any person.	Do.	Do.	Do.	Do.	Imprisonment of either description for 1 year or fine of 1,000 rupees, or both.	Magistrate of the First or Second Class.
343	Wrongfully confining for three or more days.	Do.	Do.	Do.	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Do.
344	Wrongfully confining for ten or more days.	Do.	Do.	Do	Do.	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the First or Second Class.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant	Do.	Do.	Do.	Imprisonment of either description for 2 years in addition to imprisonment under any other section.	Do.
346	Wrongful confinement in secret.	May arrest without warrant	Do.	Do.	Do.	Do.	Do.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, etc.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the First Class.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, etc.	Do.	Do.	Do.	D.	Do.	Do.

Of Criminal Force and Assault.

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Do.	D.	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant.	Do.	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the First or Second Class
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Do.	Do.	Do.	Do.	Do.	Do.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons.	Do.	Compoundable.	Do.	Do.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	Do.	Any Magistrate.

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY.—(*contd.*)

Of Criminal Force and Assault.—(contd.)

Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Penal Code.	By what Court triable.
357	Assault or use of criminal force in attempt wrongfully to confine a person	May arrest without warrant.	Warrant.	Bailable.	Not compoundable.	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Any Magistrate.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons.	Do.	Compoundable.	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Do.

Of Kidnapping, Abduction, Slavery and Forced Labour.

Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Whether compoundable or not.	Punishment under the Penal Code.	By what Court triable.
363	Kidnapping.	May arrest without warrant.	Warrant.	Not bailable.	Not Compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session
364	Kidnapping or abducting in order to murder.	Do.	Do.	Do.	Do.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Do.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Do.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement etc.	Do.	Do.	Do.	Do.	Imprisonment of either description for 10 years and fine.	Do.
366A	Procuration of minor girl.	Do.	Do.	Do.	Do.	Do.	Do.
366B	Importation of girl from foreign country.	Do.	Do.	Do.	Do.	Do.	Do.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, etc.	Do.	Do.	Do.	Do.	Do.	Do.
368	Concealing or keeping in confinement a kidnapped person.	Do.	Do.	Do.	Do.	Punishment for kidnapping or abduction.	Do.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Do.

370	Buying or disposing of any person as a slave	Shall not arrest without warrant.	Do.	Bailable.	Do.	Do.	Do.
371	Habitual dealing in slaves	May arrest without warrant.	Do.	Not bailable.	Do.	Imprisonment for life, or imprisonment of either description for 10 years and fine.	Do.
372	Selling or letting to hire a minor for purposes of prostitution, etc.	Do.	Do.	Do.	Do.	Imprisonment of either description for 10 years and fine.	Do.
373	Buying or obtaining possession of a minor for the same purposes.	Do.	Do.	Do.	Do.	Do.	Do.
374	Unlawful compulsory labour.	Do.	Do.	Bailable.	Compoundable.	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.

Of Rape.

376	Rape—if the sexual intercourse was by a man with his own wife.	Shall not arrest without warrant.	Summons.	Bailable.	Not compoundable.	Imprisonment of either description for 10 years and fine.	Court of Session.
	In any other case.	May arrest without warrant.	Warrant.	Not bailable.	Do.	Do.	Do.
377	Unnatural offences.	Do.	Do.	Do.	Do.	Do.	Do.

Chapter XVII Offences Against Property.

Of Theft.

379	Theft.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years, or fine, or both.	Any Magistrate.

Of Theft.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Penal Code.	8 By what Court triable.
380	Theft in a building, tent or vessel.	May arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.	Any Magistrate.
381	Theft by a clerk or servant of property in possession of master or employer.	Do.	Do.	Do.	Do.	Do.	Court of Session or Magistrate of the First or Second Class.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing of such theft or to retiring after committing it, or to retaining property taken by it.	Do.	Do.	Do.	Do.	Rigorous imprisonment for 10 years and fine.	Court of Session.
			Of Extortion.				
384	Extortion.	Shall not arrest without warrant.	Do.	Bailable.	Do.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the First or Second Class.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Do.	Do.	Do.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Do.
386	Extortion by putting a person in fear of death or grievous hurt.	Do.	Do.	Not bailable.	Do.	Imprisonment of either description for 10 years and fine.	Court of Session.

387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Do.
388	Extortion by threat of accusation of an offence punishable with death, imprisonment for life, or imprisonment for 10 years.	Do.	Do.	Do	Do.	Imprisonment of either description for 10 years and fine.	Do.
	If the offence threatened to be an unnatural offence.	Do.	Do.	Do.	Do.	Imprisonment for life.	Do.
389	Putting a person in fear of accusation of offence punishable with death, imprisonment for life, or imprisonment for 10 years, in order to commit extortion.	Do.	Do.	Do.	Do	Imprisonment of either description for 10 years and fine.	Do.
	If the offence be an unnatural offence.	Do.	Do.	Do.	Do.	Imprisonment for life.	Do.
	Of Robbery and Dacoity.						
392	Robbery.	May arrest without warrant.	Do.	Do.	Do.	Rigorous imprisonment for 10 years and fine.	Court of Session or Magistrate of the First Class.
	If committed on the highway between sunset and sunrise.	Do.	Do.	Do.	Do.	Rigorous imprisonment for 14 years and fine.	Do.
	Attempt to commit robbery.	Do.	Do.	Do.	Do.	Rigorous imprisonment for 7 years and fine.	Do.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery.	Do.	Do.	Do.	Do.	Imprisonment for life or rigorous imprisonment for 10 years and fine.	Do.
395	Dacoity.	Do.	Do.	Do.	Do.	Do.	Court of Session.

Of Robbery and Dacoity—(contd.)

1 Section	Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	Punishment under the Penal Code.	8 By what Court triable.
396	Murder in dacoity.	May arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	Death, imprisonment for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
397	Robbery or dacoity, with attempt to cause death or grievous hurt.	Do.	Do.	Do.	Do.	Rigorous imprisonment for not less than 7 years.	Do.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Do.	Do.	Do.	Do.	Do.	Do.
399	Making preparation to commit dacoity	Do.	Do.	Do.	Do.	Rigorous imprisonment for 10 years and fine.	Do.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Do.	Do.	Do.	Do.	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Do.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Do.	Do.	Do.	Do.	Rigorous imprisonment for 7 years and fine.	Do.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Do.	Do.	Do.	Do.	Do.	Do.

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of movable property, or converting it to one's own use.	Shall not arrest without warrant.	Do.	Bailable.	Compoundable when permission is given by the Court before which the prosecution is pending.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Do.	Do.	Do.	Not compoundable.	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the First or Second Class.
	If by clerk or by person employed by deceased.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Do.
405	Opening letters &c., not addressed to or intended for the person opening.	Do.	Do.	Do.	Compoundable with the permission of the Court before which the prosecution is pending.	Fine of 500 rupees.	Magistrate of the First Class.

Of Criminal Breach of Trust.

407	Criminal breach of trust.	May arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the First Class.
408	Criminal breach of trust by a carrier, wharfinger, &c.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	

CHAPTER XVII—OFFENCES AGAINST PROPERTY—(contd.)

Of Criminal Breach of Trust—(contd.)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Penal Code.	8 By what Court triable.
409	Criminal breach of trust by a clerk or servant.	May arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session or Magistrate of the First Class.
410	Criminal breach of trust by public servant, or by banker, merchant, or agent, &c.	Do.	Do.	Do.	Do.	Imprisonment for life, or imprisonment of either description for 10 years, and fine.	Do.
	Of the Receiving of stolen Property.						
412	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Do.	Do.	Do.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the First or Second Class.
413	Dishonestly receiving stolen property knowing that it was obtained by dacoity.	Do.	Do.	Do.	Do	Imprisonment for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
414	Habitually dealing in stolen property	Do.	Do.	Do.	Do.	Imprisonment for life, or imprisonment of either description for 10 years and fine.	Do.
415	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the First or Second Class.

Of Cheating.

418	Cheating.	Shall not arrest without warrant.	Do.	Bailable.	Compoundable when permission is given by the Court before which the prosecution is pending.	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the First or Second Class.
419	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Do.	Do.	Do.	Not compoundable.	Imprisonment of either description for 3 years or fine, or both.	Court of Session or Magistrate of the First or Second Class.
420	Cheating by personation.	May arrest without warrant.	Do.	Do.	Do.	Do.	Do.
421	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration, or destruction of a valuable security.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Court of Session or Magistrate of the First Class.

Of Fraudulent Deeds and Disposition of Property.

422	Fradulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Do.	Do.	Do.	Imprisonment of either description for 2 years or fine, or both.	Magistrate of the First or Second Class.
423	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Do.	Do.	Do.	Do.	Do.	Do.
424	Fraudulent execution of deed of transfer containing a false statement of consideration.	Do.	Do.	Do.	Do.	Do.	Do.

Of Fraudulent Deeds and Disposition of Property—(contd.)

1 Section	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Penal Code.	8 By what Court triable.
425	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly realising any demand or claim to which he is entitled.	Shall not arrest without warrant	Warrant.	Bailable.	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the First or Second Class.
427	Mischief.	Do.	Summons.	Do.	Compoundable when the only loss or damage caused is loss or damage to a private person.	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.
428	Mischief and thereby causing damage to the amount of fifty rupees or upwards.	Do.	Warrant.	Do.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the First or Second Class.
429	Mischief by killing, poisoning maiming or rendering useless any animal of the value of ten rupees or upwards.	May arrest without warrant.	Do.	Do.	Not compoundable	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.

430	Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, etc., whatever may be its value, or any other animal of the value of fifty rupees or upwards.	Do.	Do.	Do.	Do.	Imprisonment of either description for 5 years or fine, or both.	Court of Session or Magistrate of the First or Second Class.
431	Mischief by causing diminution of supply of water for agricultural purposes, etc.,	Do.	Do.	Do.	Compoundable when permission is given by the court before which the prosecution is pending.	Do.	Do.
432	Mischief by injury to public road, bridge, navigable river, or navigable channel and rendering it impossible, or less safe for travelling or conveying property.	Do.	Do.	Do.	Not compoundable.	Do.	Do.
433	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Do.	Do.	Do.	Do.	Do.	Do.
434	Mischief by destroying or moving or rendering less useful a light-house or sea-mark or by exhibiting false light.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
435	Mischief by destroying or moving, etc., a landmark fixed by public authority	Shall not arrest without warrant.	Do.	Do.	Do.	Imprisonment of either description for 1 year or fine, or both.	Magistrate of the First or Second Class.

CHAPTER XVII—OFFENCES AGAINST PROPERTY—(contd.)

Of Fraudulent Deeds and Dispositions of Property—(contd.)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	3 Whether a warrant or a summons shall ordinarily issue in the first instance.	4 Whether bailable or not.	5 Whether compoundable or not.	7 Punishable under the Penal Code.	8 By what Court triable.
436	Mischief by fire or explosive substance with intent to cause damage to amount of one hundred rupees or upwards, or, in case of agricultural produce, ten rupees or upwards.	May arrest without warrant.	Warrant	Bailable	Not Compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
437	Mischief by fire or explosive substance with intent to destroy a house, etc.	Do.	Do.	Not bailable.	Do.	Imprisonment for life, or imprisonment of either description for 10 years and fine.	Do.
438	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Do.	Do.	Do.	Do.	Imprisonment of either description for 10 years and fine.	Do.
439	The mischief described in the last section when committed by fire or any explosive substance.	Do.	Do.	Do.	Do.	Imprisonment for life, or imprisonment of either description for 10 years and fine.	Do.
440	Running vessel ashore with intent to commit theft, etc.	Do.	Do	Do.	Do.	Imprisonment of either description for 10 years and fine.	Do.
441	Mischief committed after preparation made for causing death or hurt, etc.	Do.	Do.	Do.	Do.	Imprisonment of either description for 5 years and fine.	Do.

Of Criminal Trespass.

448	Criminal trespass.	Shall not arrest without warrant.	Summons.	Bailable.	Compoundable.	Imprisonment of either description for 3 months, or fine of 500 rupees, or both	Any Magistrate.

449	Criminal trespass on land delivered in execution of decree.	Shall not arrest without warrant.	Summons.	Bailable.	Not compoundable.	Imprisonment of either description for one year, or fine of 1,000 rupees, or both.	Magistrate of the First or Second Class.
450	House trespass.	May arrest without warrant.	Warrant.	Do.	Compoundable.	Do.	Any Magistrate
451	House-trespass in order to the commission of an offence punishable with death.	Do.	Do.	Not bailable	Not compoundable.	Imprisonment for life, or rigorous imprisonment for 10 years and fine	Court of Session
452	House-trespass in order to the commission of an offence punishable with imprisonment for life.	Do.	Do.	Do.	Do.	Imprisonment of either description for 10 years and fine	Do.
453	House-trespass in order to the commission of an offence punishable with imprisonment.	Do.	Do.	Bailable.	Compoundable when permission is given by the court before which the prosecution is pending.	Imprisonment of either description for 2 years and fine.	Any Magistrate.
	If the offence is theft.	Do.	Do.	Not bailable	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session or Magistrate of the First or Second Class.
454	House-trespass, having made preparation for causing hurt, assault, etc.	Do.	Do.	Do.	Do.	Do.	Do.
455	Lurking house-trespass or house-breaking.	Do.	Do.	Do.	Do.	Imprisonment of either description for 2 years and fine.	Magistrate of the First or Second Class.
456	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the First or Second Class.
	If the offence is theft.	Do.	Do.	Do.	Do.	Imprisonment of either description for 10 years and fine	Do.
457	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, etc.	Do.	Do.	Do.	Do.	Do.	Court of Session or Magistrate of the First Class.

CHAPTER XVII—OFFENCES AGAINST PROPERTY OF CRIMINAL TRESPASS—(*contd.*)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Penal Code.	8 By what Court triable.
458	Lurking house-trespass or house-breaking by night.	May arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the First or Second Class.
459	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Do.	Do.	Do.	Do.	Imprisonment of either description for 5 years and fine.	Do.
	If the offence is theft.	Do.	Do.	Do.	Do.	Imprisonment of either description for 14 years and fine.	Do.
460	Lurking house-trespass or house-breaking by night after preparation made for causing hurt, etc.	Do.	Do.	Do.	Do.	Do.	Court of Session or Magistrate of the First Class.
461	Grievous hurt caused whilst commiting lurking house-trespass or house-breaking.	Do.	Do.	Do.	Do.	Imprisonment for life, or imprisonment of either description for 10 years and fine.	Court of Session.
462	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, etc.	Do.	Do.	Do.	Do.	Do.	Do.
463	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Do.	Do.	Bailable	Do.	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the First or Second Class.
464	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the First or Second Class.

467	Forgery	Shall not arrest without warrant.	Warrant.	Bailable.	Not compoundable.	Imprisonment of either description, for 2 years, or fine or both.	Court of Session.
468	Forgery of a record of a Court of Justice or of a Register of births, etc., kept by a public servant.	Do.	Do.	Not bailable.	Do.	Imprisonment of either description for 7 years and fine.	Do.
469	Forgery of a valuable security, will or authority to make or transfer any valuable security, or to receive any money, etc.	Do.	Do.	Do.	Do	Imprisonment for life, or imprisonment of either description for 10 years and fine.	Do.
470	Forgery for the purpose of cheating.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Do.
471	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Do.	Do.	Bailable.	Do.	Imprisonment of either description for 3 years and fine.	Do.
473	Using as genuine a forged document which is known to be forged.	Do.	Do.	Do.	Do.	Punishment for forgery.	Do.
474	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable under Section 469 of the Penal Code. or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Do.	Do.	Not bailable.	Do.	Imprisonment for life, or imprisonment of either description for 7 years and fine.	Do.
475	Making or counterfeiting a seal, plate, etc., with intent to commit a forgery punishable otherwise than under Section 469 of the Penal Code, or possessing with like intent any such seal, plate, etc., knowing the same to be counterfeit.	Shall not arrest without warrant	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Do.

CHAPTER XVIII—OFFENCES RELATING TO DOUMENTS AND TO TRADE OR PROPERTY-MARKS.—(*contd.*)

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons hall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Penal Code.	8 By what Court triable.
476	Having possession of a document, knowing it to be forged, with intent to use it as genuine, if the document is one of the description mentioned in section 468 of the Penal Code.	Shall not arrest without warrant.	Warrant.	Not bailable	Not compoundable.	Imprisonment of either description for 7 years and fine.	Court of Session.
	If the document is one of the description mentioned in Section 469 of the Penal Code.	Do.	Do.	Do.	Do.	Imprisonment for life, or imprisonment of either description for 7 years and fine.	Do.
477	Counterfeiting a device or mark used for authenticating documents described in Section 469 of the Penal Code, or possessing counterfeit marked materials.	Do.	Do.	Do.	Do.	Do.	Do.
478	Counterfeiting a device or mark used for authenticating documents other than those described in Section 469 of the Penal Code or possessing counterfeit marked materials.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years and fine.	Do.
479	Fraudulently destorying or defacing, or attempting to destroy or deface, or secreting a will, etc.,	Do.	Do.	Do.	Do.	Imprisonment for life or imprisonment of either description for 7 years and fine.	Do.

480	Falsification of accounts by a clerk, officer, or servant.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years, or fine, or both.	Do.
	Of Trade and Property Marks.						
485	Using a false trade or property mark with intent to deceive or injure any person.	Do.	Do.	Bailable.	compoundable when permission is given by the court before which the prosecution is pending.	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the First or Second Class.
486	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Do.	Do.	Do.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Do.
487	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, etc., of any property.	Do.	Summons.	Do.	Not compoundable.	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the First Class.
488	Fraudulently making or having possession of any die, plate or other instrument for counterfeiting any public or private property or trade mark.	Do.	Do.	Do.	Do.	Imprisonment of either description for 3 years, or fine, or both.	Do.
489	Knowingly selling goods marked with a counterfeit property or trade-mark.	Do.	Do.	Do.	compoundable when permission is given by the court before which the prosecution is pending.	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the First or Second Class.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Whether compoundable or not.	7 Punishment under the Penal Code.	8 By what Court triable.
490	Fraudulently making a false mark upon any package or receptacle containing goods with intent to cause it to be believed that it contains goods which it does not contain, etc.	Shall not arrest without warrant	Summons	Bailable.	Not compoundable.	Imprisonment of either description for 3 years, or fine or both.	Court of Session or Magistrate of the First or Second Class.
491	Making use of any such false mark.	Do.	Do.	Do.	Do.	Do.	Do.
492	Removing, destroying, or defacing any property-mark with intent to cause injury.	Do.	Do.	Do.	Do.	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the First or Second Class.
	Of Currency Notes and Bank Notes.						
492 A	Counterfeiting currency-notes or bank-notes.	May arrest without warrant.	Warrant	Not bailable	Do.	Imprisonment of either description for 10 years and fine.	Court of Session.
492 B	Using as genuine forged or counterfeit currency-notes or bank-notes.	Do.	Do.	Do.	Do.	Do.	Do.
492 C	Possession of forged or counterfeit currency-notes or bank-notes.	Do.	Do.	Bailable.	Do.	Imprisonment of either description for 7 years, or fine, or both.	Do.

492 D	Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.	Do.	Do.	Not bailable.	Do.	Imprisonment of either description for 10 years and fine.	Do.
	CHAPTER XIX—OF THE CRIMINAL BREACH OF CONTRACT OF SERVICE						
494	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons.	Bailable.	Compoundable	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Magistrate of the First or Second Class.
	CHAPTER XX—OFFENCES RELATING TO MARRIAGE.						
496	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant.	Not bailable.	Not compoundable	Imprisonment of either description for 10 years and fine.	Court of Session
497	Marrying again during the life time of a husband or wife.	Do.	Do.	Bailable.	Compoundable when permission is given by the court before which the prosecution is pending	Imprisonment of either description for 7 years and fine.	Do.
498	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Do.	Do.	Not bailable.	Not compoundable	Imprisonment of either description for 10 years and fine.	Do.
499	A person with fraudulent intention going through the ceremony of being married knowing that he is not thereby lawfully married.	Do.	Do.	Do.	Do.	Imprisonment of either description for 7 years, and fine.	Do.
500	Adultery.	Do.	Do.	Bailable.	Compoundable.	Imprisonment of either description for 5 years, or fine or both.	Court of Session or Magistrate of the First Class.
	Enticing or taking away or detaining with a criminal intent a married woman.	Do.	Do.	Do.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Do.

Chapter XXI—Defamation

Section. (1)	Offence. (2)	Whether the Police may arrest without warrant or not. (3)	Whether a warrant or a summons shall ordinarily issue in the first instance. (4)	Whether bailable or not. (5)	Whether compoundable or not. (6)	Punishment under the Penal Code. (7)	By what Court triable. (8)
503	Defamation.	Shall not arrest without warrant.	Summons.	Bailable.	Compoundable.	Simple imprisonment for 2 years, or fine, or both.	Court of Session or Magistrate of the First Class.
504	Printing or engraving matter knowing it to be defamatory	Do.	Do.	Do.	Do.	Do.	Do.
505	Sale of printed or engraved substance containing defamatory matter knowing it to contain such matter.	Do.	Do.	Do.	Do.	Do.	Do.

Chapter XXII—Criminal Intimidation, Insult & Annoyance.

Section. (1)	Offence. (2)	Whether the Police may arrest without warrant or not. (3)	Whether a warrant or a summons shall ordinarily issue in the first instance. (4)	Whether bailable or not. (5)	Whether compoundable or not. (6)	Punishment under the Penal Code. (7)	By what Court triable. (8)
507	Insult intended to provoke a breach of the peace.	Do.	Warrant.	Do.	Do.	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
508	False statement, rumour, &c., circulated with intent to cause mutiny or offence against the public peace.	Do.	Do.	Not bailable.	Not compoundable.	Do.	Magistrate of the First Class.
509	Criminal intimidation.	Do.	Do.	Bailable.	Compoundable.	Do.	Any Magistrate.
	If threat be to cause death or grievous hurt, &c.	Do.	Do.	Do.	Not compoundable.	Imprisonment of either description for 7 years, or fine, or both.	Court of Session or Magistrate of the First Class.
510	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Do.	Do.	Do.	Do.	Imprisonment of either description for 2 years, in addition to the punishment under the above section.	Do.

511	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Do.	Do.	Do.	Compoundable.	Imprisonment of either description for 1 year, or fine or both.	Magistrate of the First or Second Class.
512	Uttering any word or making any gesture intended to insult the modesty of a woman, &c.	Do.	Do.	Do.	Not compoundable.	Simple imprisonment for 1 year, or fine, or both.	Magistrate of the First Class.
513	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Do.	Do.	Do.	Do.	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Any Magistrate.

Chapter XXIII.—Attempts to Commit Offences.

514	Attempting to commit offences punishable with imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Compoundable when the offence attempted is compoundable.	Imprisonment not exceeding half of the longest term, and of any description provided for the offence, or fine, or both.	The Court by which the offence attempted is triable.

Offences against other Laws.

	If punishable with death, imprisonment for seven years or upwards.	May arrest without warrant.	Warrant	Not bailable.	Not compoundable.		According to the provisions of Section 18 of this Code.
	If punishable with imprisonment for three years and upwards but less than seven.	Do.	Do.	Do.	Do.		
	If punishable with imprisonment for less than three years.	Shall not arrest without warrant.	Summons.	Bailable.	Do.		
	If punishable with fine only.	Do.	Do.	Do.	Do.		

SCHEDULE III.

(See Section 24.)

ORDINARY POWERS OF MAGISTRATES.

1.—Ordinary powers of a Magistrate of the Third Class.

		Section.
1.	Power to arrest or direct the arrest of, and to commit to custody a person committing an offence in his presence	51
2.	Power to, arrest, or direct the arrest in his presence of an offender	52
3.	Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant	71, 72 and 74
4.	Power to issue proclamations in cases judicially before him	75
5.	Power to attach and sell property and to dispose of claims to attached property in cases judicially before him	76
6.	Power to restore attached property	77
7.	Power to require search to be made for letters etc.,	83
8.	Power to issue search-warrant	84
9.	Power to endorse a search-warrant and order delivery of thing found	87
10.	Power to command unlawful assembly to disperse	124
11.	Power to use civil force to disperse unlawful assembly	125
12.	Power to require military force to be used to disperse unlawful assembly	127
13	Power to order the police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial	153 and 154
14.	Power to record statements and confessions during a police investigation	162
15	Power to authorise detention of a person during a police-investigation	165
16.	Power to receive report of police officer and pass order	171
17.	Power to hold inquests	174
18.	Power to take cognizance of an offence triable by him upon a complaint or Police report	186
19.	Power to commit for trial	204
20.	Power to detain an offender found in court	292
21.	Power to apply to District Magistrate to issue commission for examination of witness	416
22.	Power to recover forfeited bond for appearance before Magistrate's Court	424
	and to require fresh security	425
23	Power to make order as to custody and disposal of property pending inquiry or trial	429
24.	Power to make order as to disposal of property	430
25.	Power to sell property of a suspected character	438
26	Power to require affidavit in support of application	449
27.	Power to make local inspection	450

2.—Ordinary powers of a Magistrate of the Second Class.

1.	The ordinary powers of a Magistrate of a third class.	
2.	Power to postpone issue of process and to inquire into a case or direct investigation	200

3.—Ordinary powers of a Magistrate of the First Class.

1.	The ordinary powers of a Magistrate of the second class.	
2.	Power to pass sentence of whipping.	21
3.	Power to issue search-warrant otherwise than in course of an enquiry	86

		Section.
4.	Power to issue search-warrant for discovery of persons wrongfully confined	96
5.	Power to require security to keep the peace	103
6.	Power to require security for good behaviour	105 and 106
7.	Power to discharge sureties	123
8.	Power to make orders prohibiting repetition of nuisance	141
9.	Power to make orders, etc., in possession cases	143, 144 and 145
10.	Power to issue process for person within local jurisdiction who has committed an offence outside local jurisdiction	182
11.	Power to entertain cases without complaint	186
12.	Power to stop proceedings when no complain	246
13.	Power to make orders of maintenance	399 and 400
14.	Power to take evidence on commission	414
15.	Power to sell property alleged or suspected to have been stolen	437
16.	Power to make order as to first offenders	401

4.—*Ordinary powers of a District Magistrate.*

1	The ordinary powers of a Magistrate of the First Class	
2.	Power to try juvenile offenders	19
3.	Power to direct warrant to land-holders	66
4.	Power to require delivery of letters	83
5.	Power to issue search-warrants for documents in custody of Anchal or Telephone authority	84
6.	Power to require security for good behaviour in case of sedition	104
7.	Power to discharge persons bound to keep the peace or to be of good behaviour	120
8.	Power to cancel bond for keeping the peace	121
9.	Power to make orders as to nuisances	130
10.	Power to make orders under	142
11.	Power to depute subordinate Magistrate to make local enquiry	146
12.	Power to transfer cases	188
13.	Power to order preliminary investigation by police officer not below the rank of Inspector in certain cases	193
14.	Power to try summarily	258
15.	Power to tender pardon to accomplice at any stage of a case	277
16.	Power to pass sentences on proceedings recorded by a subordinate Magistrate	289
17.	Power to quash convictions in certain cases	290
18.	Power to hear appeals from orders requiring security for keeping the peace or good behaviour	337
19.	Power to hear appeals from orders of Magistrates refusing to accept or rejecting sureties	338
20.	Power to hear or refer appeals from convictions by Magistrates of the second and third classes	339
21.	Power to call for records	358
22.	Power to order inquiry into complaint dismissed or case of accused discharged	359
23.	Power to order commitment	360
24.	Power to report case to High Court	361

		Section.
25.	Power to appoint person to be public prosecutor in particular case	408 (2)
26.	Power to issue commission for examination of witness	414 and 416
27.	Power to hear appeals from or revise orders passed under	424 and 427
28.	Power to withdraw cases and to try or refer them for trial	440
29.	Power to compel restoration of abducted females	465
30.	Power to pass orders under	471

SCHEDULE IV.

(See Section 25.)

ADDITIONAL POWERS WITH WHICH MAGISTRATES MAY BE INVESTED.

Powers with which a Magistrate of the First Class may be invested.	By Our Government.	(1) Power to require security for good behaviour in case of sedition, Section 104. (2) Power to make orders under Section 142. (3) Power to try summarily, Section 258. (4) Power to hear appeals from convictions by Magistrates of the second and third classes, Section 339. (5) Power to try cases under Section 117 of the Travancore Penal Code.
	By the District Magistrate.	Power to transfer cases, Section 188.
Powers with which a Magistrate of the Second Class may be invested.	By Our Government.	(1) Power to take cognizance of offences without complaint, Section 186. (2) Power to try summarily, Section 259.

THE STATEMENT OF OBJECTS AND REASONS.

Our Criminal Procedure Code, Act V of 1067 is based on the British Indian Criminal Procedure Code of 1882 (Act X of 1882) as amended by Acts III of 1884 and X of 1886. Since then, the British Indian Code has been revised and consolidated by Act V of 1898, which was itself subsequently subjected to numerous amendments by a series of Amending Acts, particularly by the Amendment Act, XVIII of 1928. Piecemeal amendments have been made from time to time in our Code, but no systematic attempt was made so far to revise it or keep it up-to-date. As a result of the experience gained in the working of the Code for the last many years, and of the several judicial pronouncements bearing on the same, (some of which are referred to below) it is found necessary to completely revise our Code. Hence the Bill.

In the following paragraphs the more important of the changes proposed to be made are briefly explained. Speaking broadly, it may be stated that the general and the fundamental principles underlying the existing Code have been kept intact, and the amendments made are with a view either to improve or to clarify the existing provisions and to incorporate a few additional provisions, where such a course has been found to be absolutely necessary.

In Chapter I, Preliminary, Clause 4 corresponds to Section 4 of the existing Code, without the definitions of the words "Chapter", "Trial", "writing", "written", "year", "month" "Sessions Division", and "District", and contains new definitions of the words "charge", "European British Subjects", "Judicial proceedings", "offence", "pleader", "Public Prosecutor", "Summons case" and "Warrant Case".

In Chapter II dealing with the constitution of Criminal Courts and offices, Clause 9 corresponding to Section 10 of the Code enables Government to authorise Additional District Magistrates to exercise the powers of a District Magistrate not only under the Code but also under any special laws. Clause 10 is new and is intended to obviate administrative difficulties caused by vacancy in the office of District Magistrates. Clause 15 corresponding to Section 13 of the Code enables Government by rules or orders to regulate distribution of work among Magistrates and Benches where they exercise concurrent jurisdiction in any area.

In Chapter III—powers of Courts—Clause 19 is new. It proposes to dispense with the trial of youthful offenders by a Court of Session except where such offence is punishable with death or imprisonment for life. The delay and expense consequent on such trial by the Sessions Court is not commensurate with the punishment that may be eventually awarded. The clause therefore provides that such offences may be tried by a District Magistrate or any Magistrate specially empowered under Section 6, sub-section (1) of the Reformatory Schools Act. Section 20 of the existing Code dealing with sentences in cases of conviction of several offences, has been re-drafted so as to remove the defects referred to in the cases reported in 20 T. L. J. 385, 21 T. L. J. 899 and 23 T. L. J. 756—*Vide* Clause 23.

In Chapter IV, dealing with aid and information to the Magistrates and Police Clause 29 which corresponds to Section 23 of the Code deals with the duties of the public to assist the Magistrates and Police. It is made wider in scope. It now imposes a duty not only to help taking into custody but also to prevent the escape of a person from custody. The duty to help in the suppression of a riot or affray is made more comprehensible by providing for the prevention or suppression of a breach of the peace. The Railway is added to the Public Utility services injury to which should be prevented. Clause 32 corresponds to Section 26 of the Code. Under sub-clause (c) it is not only information re: the commission or intention to commit non-bailable offences but also offences under Sections 135, 136, 137, 139 or 140 of the T. P. C. that have to be reported. Amongst the offences committed or intended to be committed in British India or in an Indian State are included offences under Sections 228, 229, 230, 231, 232, 233, 234, 235, 452-A, 492-B, 492-C, 492-D. while offences under Sections 111, 452, 459, 460 and 461 which under the Code are included amongst the above class are omitted.

In Chapter V dealing with arrest, escape and retaking, Clause 41 corresponds to Section 35 of the Code. Amongst persons liable to be apprehended are added deserters from His Majesty's Navy or Air Force. *Vide* Clause Sixthly. Under Clause Seventhly, of the Code, it is only persons who are liable to be apprehended under any law relating to extradition who are now liable to be apprehended, but it is now extended to cases where he is liable to be apprehended otherwise than under extradition laws. This is as a result of the Criminal Law Amendment Act which has extended the jurisdiction of the State to acts of Travancoreans committed outside the State and for which they could be proceeded against within the State. A new clause has been added as Clause Ninethly. Under Clause 42, sub-clause (c), an officer in charge of a Police station is authorised to arrest not only the class of persons now specified in clause (c) of Section 36 of the Code, but also persons who by repute habitually commit extortion or in order to committing of extortion habitually put or attempt to put any person to injury. Under Clause 43, the powers now enjoyed by an officer in charge of a Police Station under Section 37 of the Code to depute subordinates to arrest without warrant are proposed to be extended to any Police officer making an investigation under Chapter XIV.

In Chapter VI, relating to processes to compel appearance, Clause 55 corresponds to Section 49 of the Code. Express provision is made in sub-clause (2) of Clause 55 for the service of summons by an officer of the Court issuing it or other public servant. Sub-clause (3) of Clause 56 makes special provision for the service of summons on incorporated Companies or other body corporate. Clause 60 corresponding to Section 54 of the Code provides that if the person summoned is in the active service of Government or of a Railway Company, the Head of the office to whom such summons may be addressed shall after effecting service, return the summons to the Court under his signature and it is provided that such signature shall be evidence of due service.

Clause 71 corresponding to Section 65 which relates to the execution of warrants outside the jurisdiction of the Court issuing a warrant provides for the issue of such warrant to the District Superintendent of the place. Clause 76 which corresponds to Section 70 of the Code contains certain new provisions relating to investigation of claims and objections to property attached for enforcing attendance of absconding accused. *Vide* sub-clauses (7) to (11). Sub-clause (12) also prohibits the Court from selling such property until the disposal of any claim or objection preferred to such attachment.

In Chapter VII dealing with process to compel the production of documents etc., Clause 82 corresponds to Section 76 of the Code. Under Section 76 it is only a Court which is competent to order production of a document or thing necessary for the purpose of an investigation, enquiry, trial or other proceeding. It is now proposed to extend the power to officers in charge of Police Station also. Clause 86 corresponding to Section 80 of the Code empowers the District Magistrate, if he has reason to believe that any place is used for the deposit, sale, manufacture or production of any obscene object such as is referred to in Section 290 of the Travancore Penal Code or that any such obscene objects are kept or deposited in any place, to authorise any Police officer to conduct search and seize such objects. This is an additional power proposed by the Bill. Clauses 88 to 94 correspond to the provisions contained in Section 4 of the Criminal Law Amendment Act (Act X of 1114). It is proposed to repeal Section 4 of the Criminal Law Amendment Act. *Vide* Schedule I. It may be noted that these provisions correspond to Sections 99 A to 99 G of the British Indian Criminal Procedure Code. Under Section 84 of the Code, although it is provided that search lists shall be signed by attesting witnesses, the section does not cast any obligation on any person to be present at the search or to sign the record of search. It is provided in Clause 98 that the officer conducting the search may issue an order in writing so to do if they refuse to attend and witness the search and sub-clause (5) provides that failure to obey such order shall constitute an offence under Section 180 of the Penal Code.

Chapter VIII deals with security for keeping the peace and for good behaviour. Clauses 104 and 123 of this Chapter or new. Section 89 of the Code empowers certain Courts to demand security from persons convicted of rioting, assault or other breach of the peace or of abetting the same or of assembling armed men or of taking other unlawful measures with the evident intention of committing the same or any person accused of committing criminal intimidation by threatening injury to person or property. This description of the offence has given room for much judicial comment resulting in uncertainty as to the cases in which proceedings may be taken under the section. *Vide* 30 T. L. R. page 73. By sub-clause (1) of Clause 102 it is proposed to remove this difficulty by specifying the offences conviction for which would entitle the Court to demand security. Section 90 of the Code empowers the Magistrate to take proceedings on receipt of information that a person is likely to commit a breach of the peace or do any wrongful act that may occasion a breach of the peace,

Though Magistrates are not likely to take proceedings on mere information of the matter specified in the section, it is expressly provided in sub-clause (1) of Clause 103 of the Bill that when such a Magistrate is informed and if in his opinion there is sufficient ground for proceeding, he may do so. Section 90 as it stands is confined to cases of breaches of the peace or acts that may probably occasion such breaches of the peace. It is proposed to make it more comprehensive by the addition of the words "or disturb the public tranquility." Under the law, proceedings cannot be taken under the section unless the place and the person are within the jurisdiction of such Magistrate. It is now proposed that either the person informed against or the place where the breach of the peace is apprehended should be within the local limits of such Magistrate's jurisdiction. But the power to take proceedings against a person who is not within the jurisdiction is confined to District Magistrates. Clause 104 which corresponds to Section 108 of the British Indian Criminal Procedure Code enables a District Magistrate or Magistrate of the First Class specially empowered by Government to demand security from a person who within his jurisdiction intentionally disseminates or attempts to disseminate or in any way abets the dissemination of any seditious matter punishable under Section 117 of the Penal Code or any matter the publication of which is punishable under Section 145-A of the Penal Code or any matter concerning a judge which amounts to criminal intimidation or defamation under the Travancore Penal Code. But the clause prohibits the taking of proceedings against the editor, proprietor, printer or publisher of any publication registered under the Travancore Press Act, II of 1079 except by the order or under the authority of Government. Clause 106 corresponds to Section 93. Whereas Section 93 confers jurisdiction on every Magistrate of the First Class, the new clause proposes that such Magistrate shall exercise the power under the section only if he is specially empowered by Government. In sub-clause (a) corresponding to clause (a) of Section 93, amongst the class of offenders against whom proceedings for good behaviour may be taken are included forgers and persons who habitually commit mischief, extortion, cheating or persons attempting so to do, persons who habitually commit or attempt to commit or abet the commission of the offence of kidnapping, abduction, extortion, cheating or mischief or any offence punishable under Chapter XII of the Penal Code or Section 492 A, 492 B, 492 C, 492 D of the said Code, and under sub-clause (*f*), persons so desperate and dangerous whose being at large would be hazardous to the community are also made liable to be proceeded against. Clause 113 corresponds to Section 100 of the Code. Sub-clause (3) is however new and enables the Court to demand interim security pending completion of the enquiry and empowers the Government to detain him on failure to furnish such security. Clause 118 corresponds to Section 105, but it empowers the Magistrate to reject a surety not only at the time it is offered, but it empowers him to reject any security previously accepted by him or his predecessor on the ground that such security is by an unfit person for purposes of the bond. Such power is however exercisable only subject

to the proviso to that clause and to the procedure specified in sub-clauses (2) and (3). These provisions are new and correspond to the provisions contained in Section 122 of the British Indian Criminal Procedure Code. Clause 119 corresponds to Section 106. But sub-clause (4) is new. Under the last paragraph of Section 106, imprisonment for failure to give security for good behaviour may be rigorous or simple as the Court or Magistrate in each case directs. But it is provided in sub-clause (7) that imprisonment for failure to give security for good behaviour shall where the proceedings have been taken under Clause 104 be simple and where proceedings have been taken under Clause 105 or Clause 106 may be rigorous or simple as the Court or Magistrate in each case directs. This takes away the discretionary power of the Magistrate to order rigorous imprisonment in respect of proceedings under Clause 104. Clause 120 corresponds to Section 107 of the Code. The provisions contained in sub-clauses (3) to (6) are new. Clause 121 corresponding to Section 108 of the Code now proposes to empower District Magistrates to cancel bonds taken not only for keeping the peace but also for good behaviour. Clause 123 is new. It empowers the Magistrates concerned to take security for unexpired period of bond from a person for whose appearance a warrant or summons has been issued under the proviso to sub-clause (3) of Clause 118, or under Clause 122, sub-clause (2).

In Chapter IX re; unlawful assembly, for the word "order" the word "command" has been substituted as being more appropriate.

Chapter X deals with Public Nuisance. Clause 130 enlarges the scope of Section 1116 of the Code. Under the proposed clause a Magistrate of the First Class if specially empowered in that behalf may also exercise the powers under the clause. It enables the prohibition or regulation of any dangerous trade or occupation and the removal not of any building or tent or other structure or the destruction of dangerous animals. Clause 137 is new. It corresponds to Section 139A of the British Indian Code and makes special provision for dealing with cases where the existence of any public right is denied.

In Chapter XI, dealing with temporary orders in urgent cases, Clause 142 corresponds to Section 127 of the Code. It proposes to empower Government to authorise a Magistrate of the First Class also to exercise the powers under the section.

In Chapter XII, dealing with disputes as to immovable properties, Clauses 143 and 144 correspond to Sections 128 and 129 of the Code. These clauses have been re-drafted so as to remove certain doubts referred to in the decisions reported in 2 T. L. J. 123, 29 T. L. J. 70, 23 T. L. J. 264 and 25 T. L. J. 47. Sub-Clauses (7) to (10) of Clause 143 and the two provisos in Clause 144 are new. Clause 145 corresponding to Section 130 has been completely recast with a view to avoid the difficulties emphasised in the decisions reported in 22 T. L. J. 581, 27 T. L, J. 137 and 20 T. L. J. 833.

In Chapter XIII dealing with preventive action of Police Clause 151 corresponds to Section 135A of the Code. The Explanation

occurring at the end of the clause is inserted so as to cure the defect pointed out in 24 T. L. J. page 97.

Chapter XIV deals with information to the Police and their powers to investigate. Section 139 of the Code enables the officer in charge of a police station to depute any subordinate officer for investigation. In the corresponding provision in the Bill (Clause 155) power is conferred on Government to prescribe the rank of such subordinate officer. Unlike the provisions in the existing Section, it is also proposed to confer a discretionary power on the investigating officer to decide whether he should take steps for the arrest of the offender. In sub-clause (2) it is also provided that the officer making the investigation shall notify the informant, if any, if he decides not to investigate the case. In the second para of Section 143 of the Code it is provided that any person to whom a question is put by a police officer shall be bound to answer truly all questions put to him by such officer. In the corresponding provision in Clause 159 the word "truly" is omitted. The history relating to the retention of this word in the Code is, as can be seen from the report relating to the discussion concerning the provision was a matter of accident. The reasons for the omission of the word are well explained in 7 Cal. 121 F. B.; 23 Mad. 544, 8 Rangoon 511 and 61 M. L. J. 860—Clause 169 corresponds to Section 144 of the Code. It is re-drafted on the lines of Section 162 of the British Indian Code. It is now clearly provided to what extent notes of evidence recorded by the police can be made use of against the accused and under what circumstances the accused would be entitled to a copy of such evidence. Sub-clause (2) unlike the corresponding provision in sub-section (1) of Section 162 of the British Indian Code provides a further exemption in the case of evidence recorded under Section 27 of the Evidence Act. The omission in the British Indian Code has been the subject matter of a decision of a Full Bench consisting of seven judges of the Lahore High Court. *Vide* 1940 A. I. R. Lahore 129. Clause 162 relates to the power to record statements and confession and corresponds to Section 146 of the Code. The Clause has been the subject matter of constant criticisms and conflicting decisions by the Courts. The form of the memorandum which the Magistrate has to record has been amplified and made more definite. Sub-clause (5) of Clause 163 makes an additional provision enjoining officers conducting searches under the Code to forthwith forward to the nearest Magistrate copies of the records made at the time of search and the owner or occupier of the place wherein search is made is statutorily made entitled to get free of cost a copy of such record from the Magistrate. Clause 164 corresponds to Section 148 of the Code. Under the Code an officer who is desirous of having a search made within the jurisdiction of another Police officer is authorised to do so only through the other Police officer having jurisdiction Sub-clauses (3) to (5) of Clause 164 make provisions enabling the officer making the investigation without the intervention of the local officer to conduct the search in cases of emergency subject to the restrictions and limitations specified therein.

Chapter XV deals with the jurisdiction of criminal courts in inquiry and trials. In Clause 178 corresponding to Section 163 of the Code, a new clause (sub-clause 5) deals with the place of enquiry relating to the offence of kidnapping and abduction. Clauses 184 and 185 are new. They empower the Courts within whose jurisdiction is found a person who has committed offence outside Travancore to try and convict him. Clause 186 corresponds to Section 170. Clauses (c) and (d) have been omitted as special provisions have been made for dealing with complaints preferred by public servants. The expression "Police report" occurring in Clause (b) has also been omitted and in its place the words "a report in writing of such facts made by any Police officer" have been substituted. Clause 190 corresponds to Section 173 of the Code. The provision for institution of prosecutions with the previous sanction of the Court before which the offences mentioned in Clauses (b) and (c) are alleged to have been committed is omitted. It is now proposed to provide that no Court shall take cognizance except upon the complaint of the Court concerned. Sub-clause (4) makes the provisions of sub-clause (1) applicable to criminal conspiracies and abatements of and attempts to commit such offences. Sub-clause (5) makes provision enabling the superior authority of the public servant referred to in sub-clause (1) (a) to order withdrawal of the complaint preferred by a public servant. Clauses 192 and 193 are new and relate to criminal conspiracies. Clause 194 corresponds to Section 175. For the words "is accused as such public servant of any offence," the words "is accused of of any offence alleged to have been committed by him while acting or purporting to act in discharge of his official duty" have been substituted. Section 175 of the Code has been the subject matter of conflicting decisions. The above change is made for the purpose of removing all ambiguity in the matter. Clause 195 corresponds to Section 176, but a new proviso is added. It provides that where the complainant is a woman who according to the customs and manners of the country ought not to be compelled to appear in public or where an aggrieved person is under the age of 18 years or where he is an idiot or lunatic or is from sickness or infirmity unable to make a complaint, with the leave of the Court some other person may make the complaint. A similar proviso is added to Clause 196 corresponding to Section 177 of the Code. Clause 197 is new and is ancillary to the above.

In Chapter XVI, dealing with complaints to Magistrates, Clause 198 corresponds to Section 178. But sub-clause (b) provides that when the complaint is made in writing by a Court or a public servant acting or purporting to act in the discharge of his official duties his examination is not necessary. This is for removing the difficulties which otherwise may arise where such complaints have to be made in accordance with the new scheme under Clause 190. Clauses 200 and 201 correspond to Section 180 and 181 of the Code. The two clauses have been re-drafted so as to meet the points raised in the conflicting decisions bearing on the subject.

In Chapter XVIII, dealing with inquiry into cases triable by Courts of Session, sub-clause (2) of Clause 206 is new. It merely embodies a rule which is and which ought to be followed in practice. In 21 C 642 the absence of such a provision was commented upon and the defect was cured in the corresponding provision in Section 208 of the British Indian Code. In Clause 207 corresponding to Section 187 of the Code it is now proposed to give a discretionary power to the Magistrate to decide whether the accused should be examined. It is also expressly provided that the Magistrate shall record his reasons where he decides to discharge the accused. In sub-clause (2) of Clause 208 it is provided that a copy of the charge need be given free of cost only if the accused so requires, but in Clause 216 sub-clause (2) it is provided that it shall be obligatory on the committing Magistrate if he examines any additional witness after the committal to grant a copy of such evidence free of cost whether the accused so demands or not.

In Chapter XIX, dealing with the charge, Clause 218 corresponds to Section on 198 of the Code. Sub-clause (7) which corresponds to para 7 of the Section is re-drafted. In Clause 231 corresponding to Section 211 of the Code, the words "whether in respect of the same person or not" have been inserted and a proviso has been added. These enable trial at the same time of a person for offences committed against different persons. Clause 236 corresponds to Section 216 of the Code Sub-clauses, (c), (e), (f) and (g) provide for joint trials in certain additional case also.

In Chapter XX, dealing with trial of summons cases, Clause 247 corresponds to Section 227 of the Code. It is wider in scope and the wording more definite. The Clause applies whether there is only one accused or there are more than one. It also provides that the power under the Clause is exercisable only where the accusation is found to be frivolous or vexatious is also found to be false. It is also provided that by the order of discharge or acquittal the Magistrate should call upon the accused to show cause why the proceedings should not be taken and that the order for compensation would form the subject of a separate proceedings after the order of discharge. It is also provided that in cases in which there is no appeal, the compensation shall not be paid over before the expiry of one month from the date of the order.

In Chapter XXI, dealing with the trial of warrant cases, the proviso to sub-clause (1) of Clause 249 corresponding to Section 229 of the Code is new. It is intended to obviate the inconvenience which might otherwise arise in cases of complaints preferred by a Court. Clause 251 enables a Magistrate to frame a charge at any stage of the case. He need not wait until the completion of the whole prosecution evidence. Clause 253 is new. It provides for the mode of trial of a person having previous conviction, but who does not admit such conviction.

Chapter XXII dealing with summary trials corresponds to Chapter XXIA of the Code. Under Clause 256 corresponding to Section 236A it is now provided that Courts of summary jurisdiction may try all offences not punishable with death or imprisonment for a term exceeding 6 months and makes certain other offences also triable summarily. *Vide* sub-clauses (e), (f), (g), (h), (i) and (j). It is also

provided in sub-clause (2) of Clause 343 that there shall be no appeal against summary decision of First Class Magistrates where the sentence is one of fine not exceeding Rs. 10.

Chapter XXIII deals with trials before courts of Session and corresponds to Chapter XXII of the Code. The prosecutor's right of reply and the procedure in case of previous conviction are made more clear. *Vide* Clauses 274, 275 and 276.

In Chapter XXIV which deals with general provisions re : inquiry and trial, Clause 277 corresponds to Section 248 of the Code. Proviso to sub-clause (1) is new. It limits the class of Magistrates who could tender pardon under the sub-clause. It is also provided in sub-clause (2) that the accused shall be furnished with a copy of the record of reasons for the tender of pardon. Clause 279 provides for certification by the Public Prosecutor before proceedings are taken against the person to whom pardon has been tendered and a new proviso has been added to sub-clause (1). Clause 280 corresponds to Section 251 of the Code. It provides by way of right for the defence by a pleader of any person against whom any proceeding is taken in a criminal court. Sub-clause (2) is new and it provides that any person against whom proceedings are taken under Chapters X, XI, XII or XXXVI may offer himself as a witness in such proceedings. Clause 285 corresponds to Section 256 of the Code. It provides for the compounding of a larger class of offences. Sub-clause (4) provides for composition where the accused is owing to disability unable to act, for himself. Clause 288 corresponding to Section 259 now provides for the commitment of a person jointly tried with another who has been committed to the Sessions. Clause 291 is new and corresponds to Section 350 A of the British Indian Code. In 44 T. L. R. 158 (F. B.) the British Indian decisions bearing on the question of constitution of Benches and Validating their jurisdiction were reviewed. This Clause is intended to solve the difficulty pointed out in those cases.

Chapter XXVIII deals with execution. In Clause 317 the provisions of Section 3 of the Criminal Law Amendment Act X of 1114 are incorporated.

Chapter XXXI deals with appeals. Under Clause 337 there shall be no appeal against an order passed by a District Magistrate under Clause 114. Clause 338 is new and provides for an appeal against orders under Clause 118. Offences under Section 117 of the Penal Code are made triable by a Magistrate of the First Class but it is provided in clause 340 that the appeal shall lie to the High Court. Clause 344 is new and provides for special right of appeal in certain cases.

Chapter XXXIV of the Bill corresponds to Chapter XXXIII of the Code. Sections 345 to 356 have been re-drafted on the lines of Sections 464 to 475 of the British Indian Code. *Vide* Clauses 377 to 388. In Clause 377 corresponding to Section 345, a new provision has been made as sub-clause (2), providing for the release of a lunatic, against whom an enquiry is pending, on furnishing sufficient security that he shall be properly taken care of. Sub-clause (2) of Clause 379 corresponding to Section 347 empowers the Magistrate or the Court to order that the lunatic shall be detained in custody, while under the

second para of Section 347 the Magistrate or the Court is empowered only to report such cases to Government and Government are the proper authority to pass orders regarding the custody of the lunatic. In Clauses 379 and 384 corresponding to Sections 347 and 352, a new proviso has been added to the effect that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with the rules issued by Government under the Travancore Lunacy Act. Section 353 of the Code which provides that lunatic prisoners are to be visited by the Surgeon-General has been deleted since the necessary provision in this behalf is made in the Travancore Lunacy Act.

In Chapter XXXV, Clause 389 corresponding to Section 357 has been amplified empowering Courts to act on their own motion. Power is also given under sub-clause (3) to adjourn the trial of the case pending the disposal of an appeal from the original decision out of which proceedings under the clause are initiated. Clauses 390 and 391 providing for appeals and giving power to a superior Court to make a complaint are new and correspond to Sections 476A and 476B of the British Indian Code. Section 350 of the Code dealing with the powers of a Sessions Court to try a case committed to it after a complaint has been made by itself has been deleted. In Clause 395 corresponding to Section 362 of the Code, power to accept an apology is extended to cases under Clause 394 also (corresponding to Section 359 of the Code).

In Chapter XXXVI, Clause 399 corresponds to Section 366 of the Code. In sub-clause (3), for the words "if any person so ordered wilfully neglects to comply with the order," the words "if any person so ordered fails without sufficient cause to comply with the order" have been substituted, with a view to widen the judicial discretion of the Magistrate to look into the circumstances of the case. (*Vide* 1 Select Decisions 172, 2 T. L. J. 421). Under the proviso to Para 3 of Section 366 of the Code, a Magistrate may, notwithstanding the offer of a person to maintain his wife on condition that she lives with him, order an allowance if he is satisfied that such person is living in adultery or that he has habitually treated his wife with cruelty or that there is just ground for so doing. In the proviso to sub-clause (3) of Clause 399 it is proposed to delete the words "that such person is living in adultery or that he has habitually treated his wife with cruelty" and to retain only the words "that there is just ground for so doing." A new proviso is proposed to sub-clause (3) which provides that no warrant shall be issued for the recovery of the maintenance amount due unless the application therefor is made within a period of one year from the date on which it becomes due. The seventh para of Section 366 by which the accused is permitted to be examined as a witness is proposed to be deleted since the necessary general provision in this behalf is incorporated in Clause 280. In sub-clause (8) for the words "the accused may be proceeded against," the words "proceedings under this section may be taken against any person" have been substituted, since it is thought desirable to get rid of the reference to the person from whom maintenance is claimed, as an 'accused". The explanation to the last para of the existing Section 366 is also deleted. In Clause 400 corresponding

to Section 367 of the Code, sub-clause (2) which provides that the cancellation or alteration of an order passed by the Magistrate in consequence of any subsequent decision of a Civil Court has been added on the basis of the principle enunciated in 24 T. L. R. 65 and 33 T. L. R. 288. In Clause 401 corresponding to Section 368 of the Code, for the words "shall be enforcible," the words "may be enforced" have been substituted. In 25 T. L. R. 236, it was observed that the words "shall be enforcible" in Section 368 are only permissive. The change effected is intended to clear all doubts.

Clause 403 of Chapter XXXVIII corresponds to Section 369 of the Code. Power is conferred on Government under sub-clause (1) to appoint generally, or in any case, or for any specified class of cases in any local area one or more officers to be called public prosecutors. Clause 405 corresponds to Section 371 of the Code. Provision is made in the Clause to make it clear that the public prosecutor may with the consent of the court withdraw from the prosecution of any person "either generally or in respect of any one or more offences for which he is tried".

Clause 407 of Chapter XXXIX corresponds to Section 373. A proviso has been added to the Clause making it clear that nothing contained in the Clause shall affect the provisions of sub-section (4) of Section 103 or sub-section (3) of Section 113. In Clause 408 corresponding to Section 374 of the Code, sub-clauses (3) and (4) as also the proviso to sub-clause (1) are new.

In Clause 417 of Chapter XL corresponding to Section 383 of the Code, sub-clause (2) which provides that any deposition taken under the Chapter may be received in evidence at any subsequent stage of the case before another court in case such deposition satisfies the condition prescribed by Section 33 of the Evidence Act, has been newly added.

In Clause 419 of Chapter XLI corresponding to Section 385 of the Code in sub-clause (1) the words "or taken on commission under Chapter XL" have been newly inserted so as to admit in evidence deposition of medical witnesses taken on commission. In Clause 422 corresponding to Section 388 of the Code, sub-clause (2) has been newly added providing for the record of evidence when the offender is unknown. Sections 389, 390 and 390A of the Code have been omitted in view of the provisions embodied in the Evidence Bill.

Clauses 425 and 426 of Chapter XLII dealing with the procedure in case of insolvency or death of surety or when the bond is forfeited and bonds required from minors are new and are based on Sections 514-A and 514-B of the British Indian Code.

In Chapter XLIII Clause 429 re: order for custody and disposal of property pending trial in certain cases, is new and is based on Section 516-A of the British Indian Code. In Clause 430 corresponding to Section 395 of the Code, sub-clause (4) empowering the court to deliver the property to any person claiming to be entitled to it on condition of his executing a bond for its restoration, is new. In Clause 435 corresponding to Section 400 of the Code, a new sub-clause has been added as

sub-clause (3) making it clear that an order under the clause may be made by any court of appeal, confirmation, reference or revision.

The provisions relating to the transfer of criminal cases contained in Chapter XLII of the existing Code have been enlarged and amplified. *Vide* Clauses 439 and 440 of Chapter XLIV. In Clause 439, sub-clause (6) is new. Similarly sub-clauses (2) and (3) of Clause 440 have also been newly inserted.

In Clause 441 of Chapter XLV sub-clauses (*c*), (*e*), (*f*), (*g*) and (*i*) are new. An Explanation has been newly added to Clause 446 corresponding to Section 413 of the Code for the guidance of the court in determining whether any error, omission or irregularity in any proceeding under the Code has occasioned a failure of justice.

In Chapter XLVI Clauses 449, 450 and 452 are new and correspond to Sections 539-A, 539-B and 540-A of the British Indian Code In Clause 456 corresponding to Section 422 of the Code, a new sub-clause has been inserted as sub-clause (2) to make provision for the payment of compensation to innocent purchasers of stolen property when the property is restored to the owner. Clauses 4 8, 461 and 462 are new and are based on Sections 546-A, 549 and 550 respectively of the British Indian Code. In Clause 467 a new Explanation has been added so as to get over the difficulty which arose as a result of the High Court's order in Criminal Appeal No. 44 of 1111. Clauses 469 and 470 have been newly inserted and correspond to Sections 561 and 561-A of the British Indian Code. The provision relating to first offenders contained in Sections 433-A of the existing Code has been recast on the lines of the corresponding Section 562 of the British Indian Code—*Vide* Clause 471. Similarly, the scope of Section 434 of the Code has been enlarged by the new Clause 474.

Schedule I enumerates the enactments proposed to be repealed when the new Bill is passed into law. In Schedule II the item relating to Section 110-B is new. *Vide* the amendments proposed to the Penal Code. In the last column of the item relating to Section 117 a change has been made by which District Magistrates or Magistrates of the First Class specially empowered by the Government are authorised to try sedition cases. A new para has been added in the item relating to Section 169 consequent on the amendment proposed to that Section in the Penal Code Amendment Bill. In the last column in the item relating to Section 182, provision is made for trial by a Magistrate of the First Class. Certain new offences have been made compoundable. See items relating to Sections 403, 405, 418, 431, 485 and 489. Schedules III and IV respectively deal with the ordinary powers of Magistrates and the additional powers with which Magistrates may be invested. In Schedule IV provision is made so that Government may empower a First Class Magistrate to try cases under Section 117 of the Travancore Penal Code.

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